2009-2010

HOUSE ENVIRONMENT & NATURAL RESOURCES

MINUTES

NORTH CAROLINA GENERAL ASSEMBLY

ENVIRONMENT AND NATURAL RESOURCES COMMITTEE

2009-2010 SESSION

LUCY T. ALLEN, CHAIR

Room 419-B
Legislative Office Building

HOUSE STANDING COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES
2009-2010 SESSION

Representative Lucy T. Allen, Chair

Vice Chairs

Representative Mitch Gillespie
Representative Pricey Harrison
Representative Carolyn H. Justice
Representative Cullie Tarleton
Representative Alice Underhill

Committee Counsel:
Jeff Hudson
Jennifer McGinnis

Committee Analyst:
Jennifer Mundt

Research Committee Assistant:
Mariah Matheson

Committee Assistant:
Shara Graham

Permanent Directory

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

2009-2010 Session

MEMBER	ASSISTANT	PHONE	OFFICE	SEAT
Rep. Lucy Allen, Chair	Shara Graham Committee Assistant	733-5860	419B	41
Rep. Mitch Gillespie, Vice-Chair	Cindy Hobbs	733-5862	1008	74
Rep. Pricey Harrison Vice-Chair	Sue Osborne	733-5771	2119	82
Rep. Carolyn H. Justice, Vice-Chair	Vivian Sherrell	715-9664	306A3	16
Rep. Cullie Tarleton, Vice-Chair	Susan Whitehead	733-7727	2221	69
Rep. Alice Underhill, Vice-Chair	Judy Veorse	733-5853	1206	33
Rep. Kelly Alexander	Marjorie Conner	733-5778	632	83
Rep. Curtis Blackwood	Mizie Finke	733-2406	1317	97
Rep. Elmer Floyd	Jacque Dickens	733-5959	1311	90
Rep. Pryor Gibson	Susanna Davis	715-3007	419A	96
Rep. Phil Haire	Sara Jane Lennard	715-3005	639	47
Rep. Verla Insko	Gina Insko	733-7208	307B1	70
Rep. Richard Killian	Jan Copeland	733-5886	1010	88
Rep. Paul Leubke	Joyce Harris	733-7663	529	44
Rep. Grier Martin	Sylvia Hammons	733-5758	2123	18
Rep. Danny McComas	Judy Lowe	733-5786	506	13
Rep. Pat McElraft	Nancy Fox	733-6275	603	113
Rep. Bill Owens	Linda A. Johnson	733-0010	635	9
Rep. Ruth Samuelson	Susan Phillips	715-3009	418B	102
Rep. Bonner Stiller	Carla Farmer	301-1450	306A2	15
Rep. Russell Tucker	Sally Gillis	715-3021	416B	48
Rep. Roger West	Linda C. Johnson	733-5859	1004	50
Rep. Larry Womble	Dorothy McLean	733-5777	534	56

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE NAME
2009-2010 SESSION

Rep. Lucy T. Allen
Chair

Rep. Gillespie
Vice chair

Rep. Harrison
Vice chair

Rep. Justice
Vice chair

Rep. Tarleton
Vice chair

Rep. Underhill
Vice chair

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE NAME
2009-2010 SESSION

Rep. K. Alexander

Rep. Blackwood

Rep. Floyd

Rep. Gibson

Rep. Haire

Rep. Insko

Rep. Killian

Rep. Leubke

Rep. Martin

Rep. McComas

Rep. McElraft

Rep. Owens

Rep. Samuelson

Rep. Stiller

Rep. Tucker

Rep. West

Rep. Womble

ATTENDANCE

ENVIRONMENT & NATURAL RESOURCES COMMITTEE

2009-2010 Session

DATES	2-17-09	3-10-09	3-19-09	3-24-09	4-7-09	4-14-09	4-21-09	4-28-09	4-30-09	5-5-09	5-7-09	5-11-09	5-12-09 (1)	5-12-09 (2)	5-21-09
ALLEN, Lucy, Chair	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
GILLESPIE, Mitch, Vice-Chair	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
HARRISON, Pricey, Vice-Chair	X	X	X	A	A	E	X	X	X	X	X	X	X	A	X
JUSTICE, Carolyn, Vice-Chair	X	A	E	X	X	X	X	E	A	X	X	A	A	A	X
TARLETON, Cullie, Vice-Chair	X	X	X	X	X	X	X	X	X	X	X	X	X	A	X
UNDERHILL, Alice, Vice-Chair	X	X	X	X	X	X	X	X	X	X	X	X	X	A	X
ALEXANDER, Kelly	X	X	X	X	X	X	X	X	A	X	X	X	A	X	X
BLACKWOOD, Curtis	X	X	X	X	X	X	X	A	X	X	X	X	X	A	X
FLOYD, Elmer	X	X	X	X	A	X	X	X	X	X	X	X	X	A	X
GIBSON, Pryor	X	X	X	X	X	X	X	X	X	X	X	X	X	A	A
HAIRE, Phillip	X	X	X	X	X	X	X	X	X	X	X	X	X	A	A
INSKO, Verla	A	X	A	A	A	A	X	X	X	A	X	X	X	A	A
KILLIAN, Richard	X	X	X	X	A	X	X	X	X	X	X	X	X	A	X
LUEBKE, Paul	X	X	X	X	A	X	X	X	X	X	A	X	X	A	A
MARTIN, Grier	X	A	X	X	X	A	X	X	X	X	X	X	A	A	A
McCOMAS, Danny	A	A	X	A	A	X	X	X	A	X	X	X	X	X	A
McELRAFT, Pat	X	X	X	X	A	A	X	X	X	X	A	X	X	A	X
OWENS, Bill	X	A	A	A	A	A	X	A	A	A	A	X	A	A	A
SAMUELSON, Ruth	X	X	X	A	X	X	X	X	X	X	X	X	X	A	X
STILLER, Bonner	X	X	A	X	X	X	X	X	X	X	X	A	A	A	X
TUCKER, Russell	X	A	X	X	X	X	X	X	X	X	X	X	A	A	A
WEST, Roger	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
WOMBLE, Larry	X	X	X	X	A	A	X	X	X	X	X	X	X	A	A

ATTENDANCE

ENVIRONMENT & NATURAL RESOURCES COMMITTEE

2009-2010 Session

DATES	5-26-09	6-2-09	6-9-09	6-18-09	6-25-09	7-2-09	7-14-09	7-16-09	7-23-09	8-4-09	8-6-09				
ALLEN, Lucy, Chair	X	X	X	X	X	X	X	X	X	X	X				
GILLESPIE, Mitch, Vice-Chair	X	X	A	X	X	X	X	X	X	X	X				
HARRISON, Pricey, Vice-Chair	X	X	X	X	X	X	X	X	X	X	X				
JUSTICE, Carolyn, Vice-Chair	A	X	A	X	X	E	X	X	X	A	X				
TARLETON, Cullie, Vice-Chair	X	X	X	X	X	X	X	X	X	X	X				
UNDERHILL, Alice, Vice-Chair	X	X	X	X	A	X	X	X	X	X	X				
ALEXANDER, Kelly	X	X	X	X	A	A	X	X	A	X	X				
BLACKWOOD, Curtis	X	X	X	X	X	X	X	X	X	X	X				
FLOYD, Elmer	X	X	A	X	X	X	X	X	X	X	X				
GIBSON, Pryor	A	A	X	X	X	X	X	A	A	X	X				
HAIRE, Phillip	X	A	A	X	A	X	A	A	A	X	X				
INSKO, Verla	A	A	A	X	A	X	X	X	A	A	X				
KILLIAN, Richard	X	X	X	X	X	X	X	X	X	X	X				
LUEBKE, Paul	X	X	X	X	X	X	X	X	A	X	A				
MARTIN, Grier	X	X	A	X	X	X	X	X	X	X	X				
McCOMAS, Danny	A	A	X	X	X	X	A	X	X	X	X				
McELRAFT, Pat	X	X	X	X	X	X	A	X	A	X	X				
OWENS, Bill	A	A	X	X	A	A	A	A	A	A	A				
SAMUELSON, Ruth	X	X	X	X	X	X	X	X	X	X	X				
STILLER, Bonner	A	A	A	*	-	-	-	-	-	-	-	-	-	-	-
TUCKER, Russell	X	X	A	X	X	E	X	X	X	A	X				
WEST, Roger	X	A	X	X	A	X	A	X	X	A	X				
WOMBLE, Larry	X	X	X	X	X	A	A	X	E	X	X				

*Retired

ATTENDANCE

ENVIRONMENT & NATURAL RESOURCES COMMITTEE

2009-2010 Session

DATES	2-17-09	3-10-09	3-19-09	3-24-09	4-7-09	4-14-09	4-21-09	4-28-09	4-30-09	5-5-09	5-7-09	5-11-09	5-12-09 (1)	5-12-09 (2)	5-21-09
STAFF:															
Hudson, Jeff, Com. Counsel	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
McGinnis, Jennifer, Com. Counsel	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Mundt, Jennifer, Com. Analyst	X	X	X	X	X	X	X	X	X	X	X	X	X	A	X
Matheson, Mariah, Com. Assistant	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Graham, Shara, Com. Assistant	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Dixon, Thomas, Intern – Rep. Allen										X	X	X	X	X	X
Matthew Dobbins, Intern - Research													X	A	X

ATTENDANCE

ENVIRONMENT & NATURAL RESOURCES COMMITTEE

2009-2010 Session

DATES	5-26-09	6-2-09	6-9-09	6-18-09	6-25-09	7-2-09	7-14-09	7-16-09	7-23-09	8-4-09	8-6-09				
STAFF:															
Hudson, Jeff, Com. Counsel	X	X	X	X	X	X	X	X	X	X	X				
McGinnis, Jennifer, Com. Counsel	X	X	X	X	X	X	X	X	X	X	X				
Mundt, Jennifer, Com. Analyst	X	X	X	X	X	X	X	X	X	X	X				
Matheson, Mariah, Com. Assistant	X	X	X	X	X	X	X	X	X	X	X				
Graham, Shara, Com. Assistant	X	A	X	X	X	X	X	X	X	X	X				
Dixon, Thomas, Intern – Rep. Allen	X	X	X	X	X	E	X	X	E	X	X				
Matthew Dobbins, Intern - Research	X	X	X	X	X	X	X	X	X	X	X				

2009-2010 Biennium

Leg. Day: H-114/S-112

Bill	Introducer	Short Title		Latest Action	In Date	Out Date
H0003	Allred	DISAPPROVE JORDAN LAKE RULES.	H	Ref to the Com on Environment and Natural Resources, if favorable, Judiciary I	02-12-09	
H0128=	Frye	AUTHORIZE GRANDFATHER MTN. AS STATE PARK.	H	Ref to the Com on Environment and Natural Resources, if favorable, Appropriations	02-12-09	
H0163=	West	LIMIT WELL WATER TESTING FOR VOC'S.	H	Ref to the Com on Environment and Natural Resources, if favorable, Health	02-16-09	
H0169	Harrison	MODIFY DRINKING WATER TEST FOR PRIVATE WELLS.	H	Ref to the Com on Environment and Natural Resources, if favorable, Health	02-17-09	
H0171	Holliman	CERTAIN ENV'AL VIOLATIONS/ENTRY/1ST PENALTY.	H	Ref to the Com on Environment and Natural Resources, if favorable, Judiciary III	02-18-09	
H0239=	Allen	RESTORE WATER QUALITY IN JORDAN RESERVOIR.	*HR	Ch. SL 2009-216	02-23-09	05-05-09
340=	Harrison	APPALACHIAN MOUNTAINS PRESERVATION ACT.	H	Ref to the Com on Environment and Natural Resources, if favorable, Public Utilities, if favorable, Commerce, Small Business, and Entrepreneurship	03-02-09	
H0350	Allred	DISAPPROVE JORDAN LAKE RULE: TECH AMENDMENT.	H	Ref to the Com on Environment and Natural Resources, if favorable, Judiciary I	03-02-09	
H0392	Allred	PLUMBERS ALLOWED TO INSTALL WELL PUMPS.	H	Ref to the Com on Environment and Natural Resources, if favorable, Water Resources and Infrastructure	03-04-09	
H0393	Allred	MODIFY RULE-MAKING PROCESS.	H	Ref to the Com on Environment and Natural	03-04-09	

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Bill	Introducer	Short Title		Latest Action	In Date	Out Date
				Resources, if favorable, Judiciary I, if favorable, State Government/State Personnel		
H0434	Setzer	ENHANCED NOTICE FOR ANIMAL WASTE PERMITTEES.	*H	Re-ref Com On Environment and Natural Resources	03-25-09	
H0461	Hill	EXTEND ANIMAL WASTE OPERATION INSPECTION PGM.	HR	Ch. SL 2009-84	03-09-09	03-24-09
H0569	Gibson	DWQ/BRIDGE CULVERT STANDARDS.	*H	Pres. To Gov. 8/7/ 2009	05-07-09	05-12-09
H0569	Gibson	DWQ/BRIDGE CULVERT STANDARDS.	*H	Pres. To Gov. 8/7/ 2009	07-13-09	08-06-09
$ H0605	**Harrison**	**COASTAL HAZARDS DISCLOSURE:**	**H**	**Ref to the Com on Environment and Natural Resources, if favorable, Commerce, Small Business, and Entrepreneurship, if favorable, Appropriations**	**03-16-09**	
H0607	Harrison	PHASE OUT LAGOON AND SPRAYFIELD SYSTEMS.	H	Ref to the Com on Environment and Natural Resources, if favorable, Finance	03-16-09	
H0612=	McComas	DISAPPROVE COASTAL SETBACK RULE.	H	Ref to the Com on Environment and Natural Resources, if favorable, Judiciary I	03-17-09	
H0616=	Allen	OFFENSE FOR PORTABLE TOILETS/PUMPER TRUCKS.	*HR	Ch. SL 2009-37	03-17-09	03-25-09
H0617	Allen	LIMIT OUTSIDE WORK FOR DENR/LOCAL STAFF.	*H	Ref To Com On State and Local Government	03-17-09	05-11-09
H0643	Tucker	STUDY RECLAIMED WATER.	*H	Re-ref Com On Rules, Calendar, and Operations of the House	04-14-09	07-23-09
H0685=	E. Warren	AMEND ON-SITE WASTEWATER CONTRACTOR LAWS.	H	Re-ref Com On Appropriations	03-19-09	04-14-09
H0709=	Allen	ADDRESS EROSION CONTROL ISSUES.	*H	Pres. To Gov. 8/ 11/2009	03-23-09	05-12-09
H0713=	Allen	EXPAND FILM CREDIT.	*H	Postponed To 5/12/ 2010	03-23-09	05-12-09
H0736=	Spear	GRANT FUNDS/RELOCATE CONDEMN WATER STRUCTURE.	H	Ref to the Com on Environment and Natural	03-24-09	

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Bill	Introducer	Short Title		Latest Action	In Date	Out Date
				Resources, if favorable, Water Resources and Infrastructure, if favorable, Appropriations		
H0759	Gibson	ABC RECYCLING STAY EXTENSION.	HR	Ch. SL 2009-105	04-07-09	04-14-09
H0760	Gibson	DISPOSAL OF PESTICIDE CONTAINERS.	*H	Pres. To Gov. 8/7/ 2009	03-25-09	04-07-09
H0761=	Gibson	DRY-CLEANING SOLVENT ACT AMENDS.	H	Ref to the Com on Environment and Natural Resources, if favorable, Judiciary III, if favorable, Finance	03-25-09	
$ H0782	**Rapp**	**SAFE ARTIFICIAL SLOPE CONSTRUCTION ACT.**	***H**	**Re-ref Com On Rules, Calendar, and Operations of the House**	**03-26-09**	**05-11-09**
H0789=	Hall	FILE LIS PENDENS FOR CERTAIN EROSION ACTIONS.	H	Ref To Com On Judiciary I	03-26-09	05-07-09
H0802	Allen	DELINEATE RIVER BASINS.	H	Re-ref Com On Environment and Natural Resources	04-21-09	
H0810=	Harrison	REDUCE PLASTIC BAG USE.	H	Ref to the Com on Environment and Natural Resources, if favorable, Commerce, Small Business, and Entrepreneurship	03-26-09	
H0823=	Harrison	LIMIT TOXIC FLAME RETARDANTS CONTAINING PBDES.	H	Re-ref to the Com on Health, if favorable, Commerce, Small Business, and Entrepreneurship, if favorable, Finance	03-30-09	04-13-09
H0835	McLawhorn	SANITARY DISTRICTS STUDY COMMITTEE.	*H	Re-ref Com On Appropriations	03-30-09	04-08-09
H0924	Carney	MECKLENBURG COUNTY/ REIMBURSEMENT AGREEMENTS.	*HR	Ch. SL 2009-162	05-06-09	05-11-09
H0924	Carney	MECKLENBURG COUNTY/ REIMBURSEMENT AGREEMENTS.	*HR	Ch. SL 2009-162	06-16-09	06-18-09
H1066=	Hall	PER DIEM EROSION CONTROL PENALTIES.	H	Ref to the Com on Environment and Natural Resources, if favorable,	04-06-09	

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Bill	Introducer	Short Title		Latest Action	In Date	Out Date
				Judiciary I		
199	Allen	AMEND ENVIRONMENTAL LAWS 2009.	*H	Conf Com Appointed	04-07-09	05-07-09
[illegible]00	Allen	STORMWATER CONTROLS FOR COMPOST.	*HR	Ch. SL 2009-322	04-21-09	05-13-09
H1175	Hill	UPDATE NPDES PERMITTING FOR CAFOS.	HR	Ch. SL 2009-92	04-29-09	05-11-09
H1196	England	STATE NAT. & HIST. PRES. ADDNS. & DEL.	*H	Pres. To Gov. 8/6/ 2009	04-08-09	05-05-09
H1196	England	STATE NAT. & HIST. PRES. ADDNS. & DEL.	*H	Pres. To Gov. 8/6/ 2009	07-21-09	08-03-09
H1205	Harrison	ESTABLISH NC COMMISSION ON CLIMATE CHANGE.	H	Ref to the Com on Environment and Natural Resources, if favorable, Rules, Calendar, and Operations of the House	04-08-09	
H1207	Cole	CLEAN CARS/VEHICLE RETIREMENT PROGRAM.	H	Ref to the Com on Environment and Natural Resources, if favorable, Commerce, Small Business, and Entrepreneurship, if favorable, Finance	04-08-09	
H1217	Allred	REAL ESTATE DISCLOSURE/ ENVIRONMENTAL CONCERNS.	H	Ref to the Com on Environment and Natural Resources, if favorable, Commerce, Small Business, and Entrepreneurship	04-08-09	
H1232=	Gibson	STUDY OFF-SHORE DRILLING REVENUES.	H	Ref to the Com on Environment and Natural Resources, if favorable, Rules, Calendar, and Operations of the House	04-09-09	
H1236	Gibson	PROMOTE WATER USE EFFICIENCY.	*H	Pres. To Gov. 8/7/ 2009	05-06-09	05-12-09
H1287	Harrison	RECYCLE PRODUCTS CONTAINING MERCURY.	*H	Re-ref Com On Appropriations/ Base Budget	05-04-09	05-11-09
H1290	Harrison	NC CLEAN CARS PROGRAM.	H	Ref to the Com on Environment and Natural Resources, if favorable, State Government/State	04-09-09	

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Bill	Introducer	Short Title		Latest Action	In Date	Out Date
				Personnel		
333	Stiller	REVISE NC RIVER BASINS.	*H	Re-ref Com On Environment and Natural Resources	04-29-09	
H1335	Gibson	MORATORIUM ON EMC RULE MAKING.	*H	Ref To Com On Rules, Calendar, and Operations of the House	04-09-09	05-12-09
H1354	Harrison	INCREASE PUBLIC SAFETY FOR COAL ASH DISPOSAL.	H	Ref to the Com on Environment and Natural Resources, if favorable, Public Utilities, if favorable, Finance	04-28-09	
H1378	McComas	CLEAN MARINAS/PUMPOUT STATIONS.	*HR	Ch. SL 2009-345	05-06-09	05-11-09
H1388	Fisher	BROWNFIELDS PROPERTY NOTIFICATIONS.	*HR	Ch. SL 2009-181	04-13-09	05-11-09
H1399	Braxton	CAPACITY USE AREAS ENFORCEMENT.	*HR	Ch. SL 2009-134	04-29-09	05-12-09
H1426=	Gibson	AMEND ELECTRONICS RECYCLING LAW.	H	Ref to the Com on Environment and Natural Resources, if favorable, Commerce, Small Business, and Entrepreneurship	04-13-09	
H1427	Gibson	AMEND COMPUTER RECYCLING PROVISIONS.	H	Ref to the Com on Environment and Natural Resources, if favorable, Commerce, Small Business, and Entrepreneurship, if favorable, Finance	04-13-09	
H1441	Harrison	GREENHOUSE GAS EMISSIONS REDUCTION ACT.	H	Ref to the Com on Environment and Natural Resources, if favorable, Public Utilities	04-13-09	
H1462=	Hughes	CEMENT PLANT MORATORIUM AND STUDY.	H	Ref to the Com on Environment and Natural Resources, if favorable, Commerce, Small Business, and Entrepreneurship	04-13-09	
H1490=	Harrell	LAND DEVELOPMENT PERMIT CHANGES.	*H	Pres. To Gov. 8/ 11/2009	04-13-09	05-06-09
H1559	Allen	RADIATION PROTECTION	H	Ref to the Com on	04-29-09	

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Bill	Introducer	Short Title		Latest Action	In Date	Out Date
		PROGRAM FEE AMENDMENTS.		Environment and Natural Resources, if favorable, Finance		
H1575	Gibson	ACCELERATE REMEDIATION OF MANUFACTURING SITES.	H	Ref to the Com on Environment and Natural Resources, if favorable, Commerce, Small Business, and Entrepreneurship, if favorable, Finance	05-05-09	
H1634	Harrison	CLARIFY PROPERTY TAX FOR CONSERVATION LAND.	H	Ref to the Com on Environment and Natural Resources, if favorable, Finance	05-07-09	
$ H1640	**Fisher**	**STUDY/ECONOMIC IMPACT OF ARTS/CULTURE IN WNC.**	**H**	**Re-ref Com On Rules, Calendar, and Operations of the House**	**05-07-09**	**06-25-09**
S0044	Eleanor Kinnaird	APPEALS OF QUASI-JUDICIAL LAND-USE DECISIONS.	*HR	Ch. SL 2009-421	05-12-09	06-25-09
S0089=	Joe Sam Queen	AUTHORIZE GRANDFATHER MTN. AS STATE PARK.	*HR	Ch. SL 2009-12	03-11-09	03-19-09
S0141=	John Snow	LIMIT WELL WATER TESTING FOR VOC'S.	*HR	Ch. SL 2009-124	02-25-09	05-25-09
307	Ed Jones	REGULATE OWNERSHIP & USE OF CERTAIN REPTILES.	*HR	Ch. SL 2009-344	06-03-09	07-06-09
S0586=	Floyd B. McKissi	FILE LIS PENDENS FOR CERTAIN EROSION ACTIONS.	HR	Ch. SL 2009-269	05-19-09	06-09-09
S0600=	Daniel G. Clodfe	CONDEMNATION OF CONSERVATION EASEMENTS.	*HR	Ch. SL 2009-439	06-04-09	07-06-09
S0636=	Harry Brown	REIMBURSE BEACH NUISANCE ABATEMENT COST.	*H	Re-ref Com On Appropriations	05-04-09	05-25-09
S0700=	Tony Rand	DRY-CLEANING SOLVENT ACT AMENDS.	*H	Pres. To Gov. 8/11/2009	06-17-09	06-25-09
S0755	Daniel G. Clodfe	PROMOTE MITIGATION BANKS.	*HR	Ch. SL 2009-337	05-12-09	06-18-09
S0778	R. C. Soles, Jr.	ELIMINATE OVERLAP BETWEEN CAMA AND SEPA.	*H	Ref to the Com on Environment and Natural Resources, if favorable, Judiciary I	05-11-09	
S0831=	Daniel G. Clodfe	EXTEND CERTAIN DEVELOPMENT APPROVALS.	*HR	Ch. SL 2009-406	05-14-09	05-25-09
S0832	Julia Boseman	CRC MAY PERMIT TERMINAL GROIN.	*H	Ref to the Com on Environment and	05-05-09	

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Bill	Introducer	Short Title		Latest Action	In Date	Out Date
				Natural Resources, if favorable, State Government/State Personnel, if favorable, Rules, Calendar, and Operations of the House		
S0835	Charles W. Alber	EXTEND CLIMATE CHANGE COMMISSION.	*HR	Ch. SL 2009-306	04-09-09	05-26-09
S0836=	Charles W. Alber	RECYCLE PRODUCTS CONTAINING MERCURY.	*H	Re-ref Com On Environment and Natural Resources	05-14-09	08-06-09
S0836=	Charles W. Alber	RECYCLE PRODUCTS CONTAINING MERCURY.	*H	Re-ref Com On Environment and Natural Resources	08-06-09	
S0838=	Charles W. Alber	AMENDMENTS TO ENVIRONMENTAL LAWS 2009.	*H	Pres. To Gov. 8/11/2009	05-14-09	08-05-09
S0887=	Don Vaughan	AMEND ELECTRONICS RECYCLING LAW.	*H	Ref to the Com on Environment and Natural Resources, if favorable, Commerce, Small Business, and Entrepreneurship	05-18-09	
S0968	Joe Sam Queen	MOUNTAIN RESOURCES PLANNING.	*H	Pres. To Gov. 8/11/2009	08-05-09	08-06-09
990	Don Davis	INCREASE PENALTY/ TIMBER THEFT.	*H	Pres. To Gov. 8/6/2009	05-19-09	06-02-09
S0998	Clark Jenkins	MORATORIUM ON CERTAIN SANDBAG REMOVALS.	*H	Ref to the Com on Environment and Natural Resources, if favorable, Rules, Calendar, and Operations of the House	05-07-09	
S1004=	David W. Hoyle	AMEND CERTAIN ELECTRICITY GENERATION LAWS.	*HR	Ch. SL 2009-390	07-13-09	07-20-09
S1018=	Josh Stein	BAN CERTAIN SINGLE-USE BAGS.	*HR	Ch. SL 2009-163	05-18-09	06-09-09
S1020	Josh Stein	IMPROVE UPPER NEUSE BASIN WATER QUALITY.	*H	Pres. To Gov. 8/11/2009	05-26-09	08-06-09

'$' indicates the bill is an appropriation bill.
A bold line indicates the bill is an appropriation bill.
'*' indicates that the text of the original bill was changed by some action.
'=' indicates that the original bill is identical to another bill.

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES

COMMITTEE MEETING

February 17, 2009
12:00 NOON
Room 643 LOB

Representative Lucy T. Allen, Chair

WELCOME AND OPENING REMARKS BY REPRESENTATIVE ALLEN

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

Introduction of Committee members

Remarks by Steve Troxler, Commissioner of Agriculture

Remarks by Dee Freeman, Secretary of the Department of Environmental and Natural Resources

Committee Discussion

ADJOURNMENT

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

February 17, 2009

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Tuesday, February 17, 2009, in room 643 of the Legislative Office Building. Representative Lucy T. Allen presided. Members present were: Representatives Gillespie, Harrison, Justice, Tarleton, and Underhill, Vice-Chairs; Representatives Alexander, Blackwood, Floyd, Gibson, Haire, Killian, Luebke, Martin, McElraft, Owens, Samuelson, Stiller, Tucker, West, and Womble. Assisting with the meeting were: Jeff Hudson, and Jennifer McGinnis, Committee Counsel; Jennifer Mundt, Committee Analyst; Mariah Matheson, Staff Assistant; and Shara Graham, Committee Assistant. Assisting from the House Sergeant-at-Arms were James Worth, Fred Hines, Frank Prevo, Trey Hines, and Carlton Adams. A list of visitors is attached.

Representative Allen called the meeting to order at 12:01 p.m. and welcomed all to the initial meeting of the ENVIRONMENT AND NATURAL RESOURCES COMMITTEE for the 2009-2010 Session. She then introduced the pages of the day: Terrance Shelton, Forsyth County (sponsored by Representative Womble); Jordan Jeter, Wake County (sponsored by Representative Avila); and Jimmy A. Woods, Durham County (sponsored by Representative Michaux). She next recognized staff members: Jeff Hudson, Committee Counsel; Jennifer McGinnis, Committee Counsel; Jennifer Mundt, Committee Analyst; Mariah Matheson, Committee Assistant; and Shara Graham, Committee Assistant and Legislative Assistant to Representative Allen. The Chair welcomed all members of the ENVIRONMENT AND NATURAL RESOURCES COMMITTEE and asked the members to introduce themselves.

Once introductions were completed, Representative Allen welcomed Steve Troxler, Commissioner of the North Carolina Department of Agriculture. He began his presentation by noting that agriculture/agri-business is the largest industry in the state. He pointed out ways that the current economic conditions are affecting agriculture in North Carolina. He talked about the decline of young people going into this profession and the impact that creates for the economy of our state. The Commissioner then talked about food safety and how that is a large agricultural issue at this time. He summed up by touching on the many different areas that the Department of Agriculture regulates, such as weights and measures, retail scanners, and gas pumps, among other applications.

Representative Allen then opened the floor for questions and comments from the committee members. Commissioner Troxler fielded questions about safety concerns, such as the recent peanut scare, and how the Department was going about restoring consumer confidence; about water allocation and the effects on farmers; about the Department's role in the development of hybrid and synthetic foods; and about the future of pork exports. Representative Allen thanked Commissioner Troxler for his informative presentation.

Next on the agenda was a presentation by Dee Freeman, the new Secretary of the Department of Environment and Natural Resources. He introduced himself and presented his background and qualifications, then spoke of the role of DENR as he sees it and of the directives for the Department as outlined by Governor Purdue. He spoke of the need for teamwork and accountability within the Department and the planned outreach to concerned constituent groups. At the close of his presentation, Representative Allen opened the floor for members to present questions or comments to Secretary Freeman.

Following questions and discussion, the Chair adjourned the meeting at 12:50 p.m.

Respectfully submitted,

Representative Lucy T. Allen, Chair

Shara Graham, Committee Assistant

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — February 17, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Will, Jennifer, Jared Cameron and Claire Knecht	1032 Arboretum Dr. Wilmington, NC
Kenneth Bone	Bone and Associates PO Box 28586, Raleigh NC 27611
Alicia	MWC BPAT Bldg.
Ray Starling	NC Dept. of Agriculture & Cons. Services
Anonymous	reser
Katherine Ross	Parker Poe
Joe McClees	McClees Consulting
Jaz Tunnell	Piedmont Natural Gas Co. Inc. NC
John Monaghan	" "
Mac Boxley	NC Aggregates Assoc.
Patrick Buffkin	NMRS

VISITOR REGISTRATION SHEET

Environment (House) — Name of Committee

February 17, 2009 — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Roberts	NCAOA
[illegible]	NC Chamber
Tanna Dooley	Forestry DENR
Steven Waters	N/A
Wendy Kelly	SCD Wicker
Lori Perry	Duke Energy Carolinas
[illegible]	Bar Assn
Jen Gordon	Citizen 3329 Paramount Way WI 28405
Maryland Kuffle	Citizen – 3344 Paramount Ln. WI 28405
SUZANNE COOPER	CITIZEN – 125 COOPER LN ROCKY PT 28457
Bettie Fennell	Voter – 800 Little Kelly Rd Rocky Pt 28457

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — February 17, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Matt Kendall	TPG
Andrew Meehan	NCAEC
Andrea Cable	DLC and NSEA
Lu-Ann [illegible]	NCIC
John McHugh	GOLDACRE
Bob Slocum	NC FORESTRY ASSOC
Jeff Judd	PBU
Butch Gunnells	NC Bev A
Doug Peters	PPAssoc
DAVID BARNES	Poyner Spruill
Thomas Moo	Edwards Wells

VISITOR REGISTRATION SHEET

Environment (House) — Name of Committee

February 17, 2009 — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Gordon Myers	N.C.W.R.C.
Richard C. Reich	NCDA&CS
Billy Gullet	NCRC
Dan Crawford	CCNC
Hayley Rogers	North Carolina Rural Water Assn.
Daniel Wilson	North Carolina Rural Water Assoc.
Casandra White	AOC
David Knight	TNC
Bill Raynor	NC Rural Ctr.
Sharon Miller	CUCA
Edgar Miller	CTNC

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — **Name of Committee**

February 17, 2009 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mandy Wilder	DENR
Faith Everett	Carolina Justice Policy Center
Charmaine Fuller	Carolina Justice Policy Center
Jim B Dannel	NC DMF
N. David Smith	NCDA&CS
Cary Hardy	DENR
Anna McNeal	DENR
Elizabeth Curtis	Environment North Carolina
Zane Hedgecock	NCDA&CS.
Joy Hawkins	NCDA&CS
Howard Ply	NCDA&CS

VISITOR REGISTRATION SHEET

Joint Environment — 2-17-09

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
VALERIE McMILLAN	DOA, ~~State~~ Clearinghouse 1301-MSC

House Pages

Name Of Committee: Environment and Natural Resources Date: 2/17/09

1. Name: Terrance Shelton
   County: Forsyth
   Sponsor: Larry Womble
2. Name: Jordan Jeter
   County: Wake
   Sponsor: Marilyn Avila
3. Name: Jimmy A. Woods
   County: Durham
   Sponsor: Henry Michaux
4. Name: _____
   County: _____
   Sponsor: _____
5. Name: _____
   County: _____
   Sponsor: _____

Sgt-At-Arms

1. Name: JAMES Worth
2. Name: FRED HINES
3. Name: FRANK PREVO
4. Name: TREY HINES
5. EARLTON ADAMS

EARL COKER

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE

MEETING

MARCH 10, 2009
12:00 NOON
Room 643 LOB

Representative Lucy T. Allen, Chair

WELCOME AND OPENING REMARKS BY REPRESENTATIVE ALLEN

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

Report on the Parks and Recreation Trust Fund *(10 minutes)*
Lewis R. Ledford, Director
Division of Parks and Recreation, DENR

Report on the North Carolina Natural Heritage Trust Fund *(10 minutes)*
Lisa D. Riegel, Executive Director
North Carolina Natural Heritage Trust Fund, DENR

Report on the activities of the North Carolina Development and Farmland Preservation Trust Fund Committee *(10 minutes)*
Dewitt Hardee, Environmental Program Manager
Department of Agriculture and Consumer Services

Update on Land for Tomorrow *(5 minutes)*
Tom Cors, Steering Committee Member
Land for Tomorrow

Report on the implementation of the Clean Water Management Trust Fund *(15minutes)*
Richard E. Rogers, Jr., Executive Director
Clean Water Management Trust Fund

Committee Discussion

ADJOURNMENT

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

March 10, 2009

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Tuesday, March 10, 2009, in room 643 of the Legislative Office Building. Representative Lucy T. Allen presided. Members present were: Representatives Gillespie, Harrison, Tarleton, and Underhill, Vice-Chairs; Representatives Alexander, Blackwood, Floyd, Gibson, Haire, Insko, Killian, Luebke, McElraft, Samuelson, Stiller, West, and Womble.

Representative Allen called the meeting to order at 12:10 p.m. She began by introducing the pages: Ashara Meekins, Cumberland County (sponsored by Representative Floyd) and Adonna Rowland, Durham County (sponsored by Representative Hall). She next presented the Sergeant-at-arms staff: Fred Hines, Carlton Adams, Earl Coker, Frank Prevo, and James Worth. Staff members were then recognized: Jeff Hudson, Committee Counsel; Jennifer McGinnis, Committee Counsel; Jennifer Mundt, Committee Analyst; Mariah Matheson, Committee Assistant; and Shara Graham, Committee Assistant and Legislative Assistant to Representative Allen.

Representative Allen introduced Lewis Ledford, Director of the Division of Parks and Recreation with the Department of Environment and Natural Resources, for a presentation on the Parks and Recreation Trust Fund. Mr. Ledford showed a Power Point presentation (copy attached). Following his report, questions from the committee were satisfactorily addressed.

Next on the agenda was Richard Rogers, Jr., Executive Director of the Clean Water Management Trust Fund. He, too, showed a Power Point presentation (copy attached). He gave a comprehensive overview of projects funded through this endeavor. At the completion of his talk, Representative Allen asked the committee members to hold their questions and direct them to Mr. Rogers following the meeting.

The third presenter was Lisa Riegel, Executive Director of the North Carolina Natural Heritage Trust Fund with the Department of Environment and Natural Resources. She gave a program overview (copy of the Power Point presentation attached) followed by comments on the highlights of the program. In the interest of time, Representative Allen again asked committee members to take their individual questions to Ms. Riegel following the meeting.

The final speaker to be recognized was Dewitt Hardee, Environmental Program Manager with the Department of Agriculture and Consumer Services. He distributed a pamphlet describing the Agricultural Development and Farmland Preservation Trust Fund and a

copy of the 2008 Annual Report of the fund (copies attached). He spoke briefly about the projects that had been possible as a result of such funding. Because of time constraints, committee members had to forgo questions and comments for Mr. Hardee.

Representative Allen apologized to Tom Cors with Land for Tomorrow, who was to have been the final presenter on the agenda. She invited him to return to present at the next meeting.

The committee was adjourned at 12:58 p.m.

Respectfully submitted,

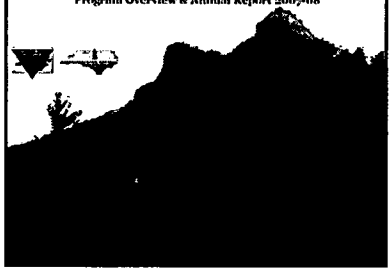
Representative Lucy T. Allen, Chair

Shara Graham, Committee Assistant

1
Ladf.

Parks and Recreation Trust Fund

Program Overview & Annual Report 2007-08



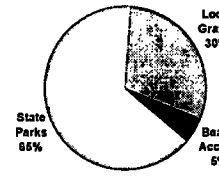
Parks & Recreation Trust Fund (PARTF)

Established in 1994 to provide funding for:

1. State park land acquisition and capital improvement projects
2. Grants to local governments for local park and recreation purposes
3. Coastal and Estuarine Beach Access Program

Rowan County – Dunn's Mountain

PARTF Revenue Allocated by Purpose



Dedicated Revenue 2007-08

- Primary revenue source: $1.00 tax per $500 in real estate value
- PARTF receives 75% of the state's portion of the revenue
- PARTF receives $5.00 for each personalized license plate (FY 07-08 = $1.4 million)
- Total Revenue in 2007-08: $52.4 million

New River State Park Visitor Center

North Carolina Parks and Recreation Authority

PARTF Local Government Grant Program Basic Facts

- Applicants – Local governments and public authorities authorized to provide recreation
- Eligible Projects – Buy park land and build recreational facilities

Louisburg – Walking Trail

PARTF Grants for Local Governments Basic Facts

- Maximum Grant Amount - $500,000
- Local governments match the PARTF grant dollar-for-dollar.
- The value of donated property can be used as the local match.

Tarboro - Softball Complex

PARTF Grants for Local Governments Important Dates

- Applications due January 31
- The Parks and Recreation Authority selects grant recipients in May and July

Spruce Pine

Evaluating Applications - PARTF Scoring System Criteria

- Number of recreation facilities provided
- Project planning
- Involving the public
- Acquiring land
- Applicant's ability to operate and maintain the project
- Quality of park site

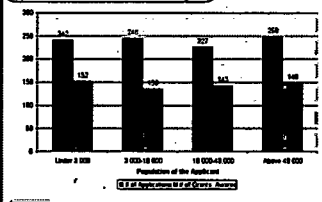
Roanoke Rapids – Picnic Shelter on Lake Gaston

Selecting Grant Recipients: Other Factors Considered

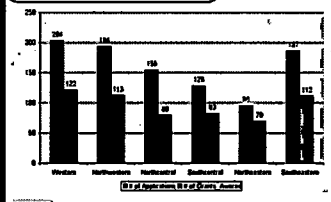
- Distribution of grant awards across the state
- Population of the applicant
- Administration of previous grants
- The applicant's justification for the project

Chowan County – Community Center

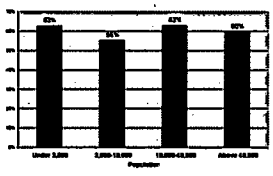
Local Government
Number of Applications & Grants by Population



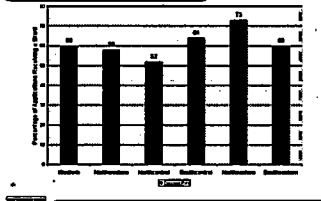
Local Government
Number of Applications and Grants by Region



Grants Have Been Awarded Evenly to Small and Large Communities



Grants Have Been Distributed Evenly Across the State



PARTF Grant Requests and Awards 2008

Applications

- 89 applications received, proposing $60 million in land acquisition and recreational facilities
- $27 million in grant requests
- $61 million in local matching funds committed

Grants Awarded

- 45 grants awarded to projects totaling $51 million
- $16.8 million in PARTF funds awarded
- $34.3 million in local matching funds leveraged

PARTF Grants for Local Governments 1997-2008

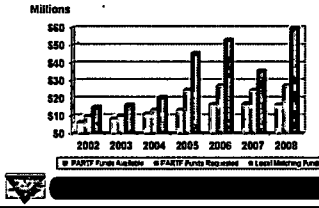
Applications Received

- 1,044 applications received
- $200 million in grant requests
- $367 million in local funds pledged to match PARTF grant funds

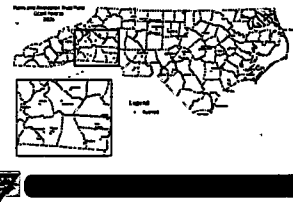
Grants Awarded

- 585 grants awarded
- $126 million in grant awards
- $213 million in local matching funds leveraged by grants ($1.70 in local funds are spent to match each $1.00 in grant funds)

Grant Request Funds from Local Governments Exceed Funds Available



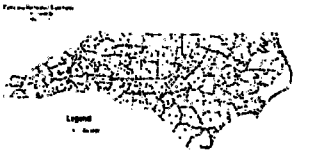
Geographic Distribution of Grants 2008



Examples of PARTF Grant Awards
2008

- Guilford County - Stokesdale, population 3,600, is establishing its first public park. The park will provide a playground, soccer fields and walking trails for a growing community.
- Lincoln County - Rock Springs Park, is a planned site for the Carolina Thread Trail. The 116-acre park will aid in protecting water supply and water quality in a rapidly urbanizing area.
- Pender County - The Town of Burgaw will build a 2.1 mile looped trail system to include a picnic shelter and playground.
- Person County - The Mayo Park Environmental Education Center is the first facility like this to be built in the county and will employ "green design" features such as solar panels, low flow toilets and compact florescent lighting.

Geographic Distribution of Grants
1995 - 2008



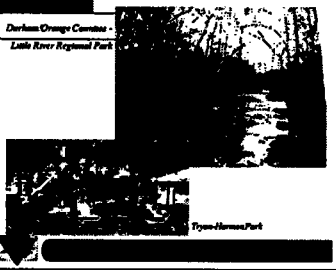
PARTF Grant Program Accomplishments since 1996

- 4,300 acres acquired
- 366 picnic shelters
- 243 playgrounds
- 465 athletic fields
- 107 tennis courts
- 277 trail projects
- 60 recreation centers
- 11 swimming pools

Hertford County – Fishing Pier on the Perquimmons River

Morganton – Catawba River Greenway

Durham/Orange Counties - Little River Regional Park



Tyson-Herman Park

Forsyth/Guilford Counties - Triad Park Community Center

PARTF Funding
State Parks System

Chimney Rock State Park

PARTF Capital Improvement Projects in the State Parks System
2008

14 Capital Improvement Projects totaling $18.1 million

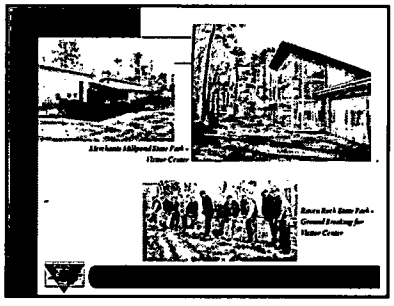
Examples:

- Dismal Swamp State Park – Funding for 7,050-square-foot visitor center, exhibits and related facilities to open this new state park to the public.

- Mount Mitchell State Park - Observation deck for a panoramic view along with upgrade of summit trail.

- Elk Knob State Park - Interim visitor facilities including picnic grounds, ranger station and improvement to summit trail.

Fort Macon State Park - Visitor Center

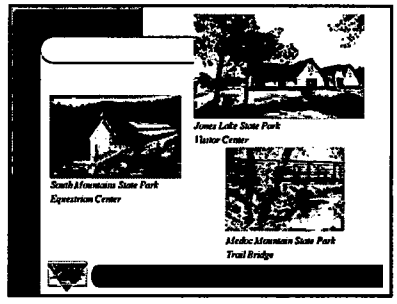


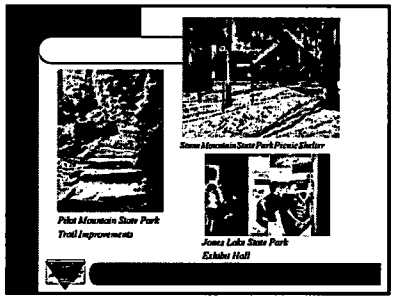
PARTF Capital Improvement Projects in the State Parks System 1997-2008

199 Capital Improvement Projects

- Sample Projects
  - Visitor Centers / Exhibits
  - Campgrounds
  - Picnic Shelters
  - Roads and Utilities
  - Historical Renovation

South Mountains State Park Visitor Center



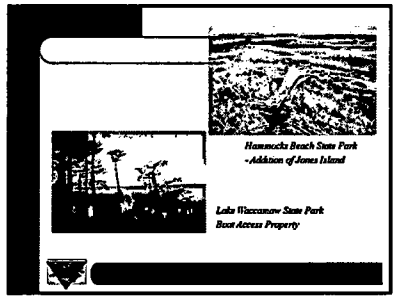


PARTF Land Acquisition Projects in the State Parks System 2008

Acquired over 1,400 acres at 10 state parks for $13.5 million
(COPs : 4,800 acres at 8 state parks for $50 million)

- Acquisition of 974 acres at Haw River State Park, including 692 acres slated for intense development

Haw River State Park



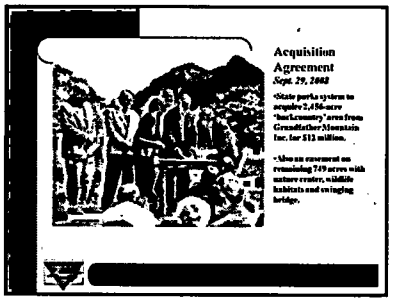
Elk Knob State Park 800 acres to provide viewspace and view protection.

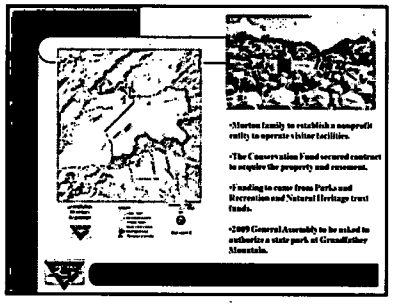
PARTF Land Acquisition Projects in the State Parks System 1997-2008

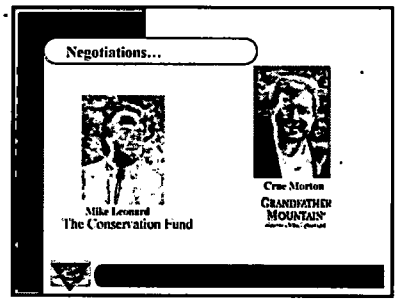
- Over 36,000 acres acquired
- Sample Projects:
  - Eno River 'Wilderness'
  - Chimney Rock
  - Elk Knob
  - Gorges
  - Mayo River
  - Haw River

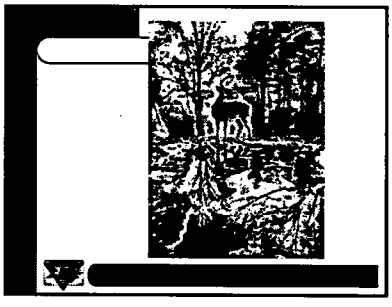
Lake James State Park – 2,915 acres

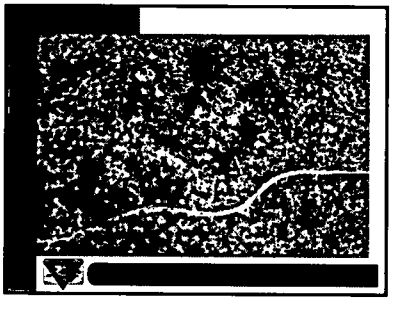
Grandfather Mountain Agreement &Acquisition

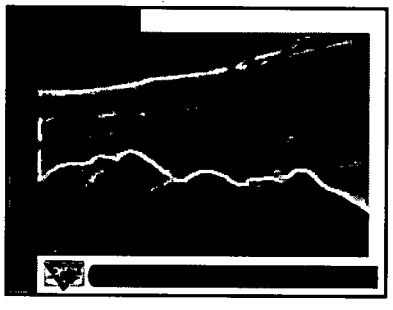

Acquisition Agreement
Sept. 29, 2003
•State parks system to acquire 2,456-acre 'inholdings' area from Grandfather Mountain Inc. for $12 million.
•Also an easement on remaining 749 acres with nature center, wildlife habitats and swinging bridge.

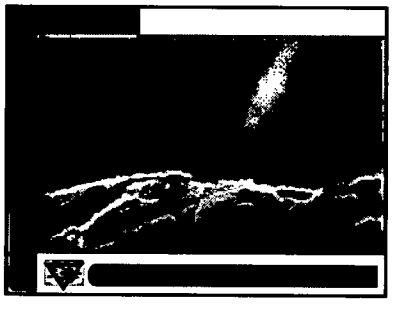

•Morton family to establish a nonprofit entity to operate visitor facilities.
•The Conservation Fund secured contract to acquire the property and easement.
•Funding to come from Parks and Recreation and Natural Heritage trust funds.
•2009 General Assembly to be asked to authorize a state park at Grandfather Mountain.


Negotiations...
Mike Leonard
The Conservation Fund
Crae Morton
GRANDFATHER MOUNTAIN



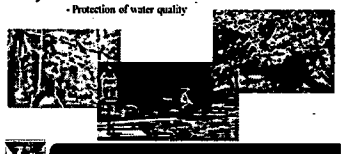






PARTF/CWMTF/NHTF Partnership

- Have shared in the conservation of many significant areas
- Conservation of land through the state parks system serves multiple goals including:
  - Preservation of significant natural resources
  - Providing recreation in a natural setting, and
  - Protection of water quality



State Parks Visitation

2000	11.8 million
2001	12.6 million
2002	13.2 million
2003	11.2 million
2004	11.7 million
2005	12.3 million
2006	12.6 million
2007	13.4 million (Record High)
2008	13 million

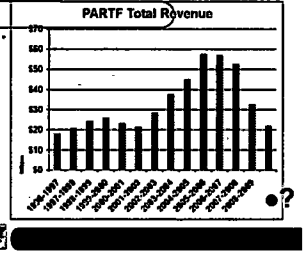
State Parks System - Future Needs

- The system is experiencing record attendance
- Important natural resources need protection
- Visitor centers and exhibit space are needed for environmental education

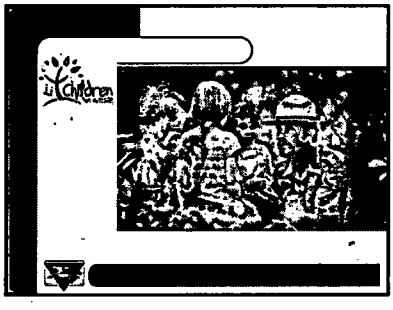
State Parks System - Future Needs

- Additional Land and facilities are needed at most state parks.
- More than 40 potential park units have been identified by the *New Parks for a New Century* initiative.
- Ongoing repairs and renovations are needed to ensure safe, high-quality experiences for park visitors.

PARTF Total Revenue



... to protect North Carolina's natural diversity;
... to provide and promote outdoor recreation opportunities throughout North Carolina; and
... to exemplify and encourage good stewardship of North Carolina's natural resources for all citizens and visitors.



North Carolina
Parks and Recreation Trust Fund
2007–2008
ANNUAL REPORT

Division of Parks and Recreation

Department of Environment and Natural Resources

Michael F. Easley

Governor

William G. Ross Jr.

Secretary
Department
of Environment and
Natural Resources

Parks and Recreation Trust Fund
Annual Report 2007–2008

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1.0 Introduction

The North Carolina General Assembly established the North Carolina Parks and Recreation Trust Fund (PARTF) on July 16, 1994. The General Assembly made an initial appropriation of $1 million to the PARTF to fund improvements in state parks, to fund grants for local governments and to increase public access to the state's beaches. In 1995, the General Assembly dedicated funds from the excise stamp tax to the trust fund starting in FY 1996-97. The Parks and Recreation Authority, an 11 member board, was also created to allocate funds from the PARTF to projects in state parks and to grants for local governments.

The excise tax is the primary funding source for the PARTF. The tax is levied on each "deed, instrument, or writing by which interest in real property is conveyed to another person." The tax is levied at the rate of one dollar on each $500 of the interest or property conveyed. Each county remits one-half of the proceeds, less the county's allowance for administrative expenses, to the state. Effective July 1996, the General Assembly (G.S. 105-228.30) stipulated that part of the state's share would be allocated to the PARTF. Of the funds remitted, the Department of Revenue credits 75 percent to the Parks and Recreation Trust Fund and 25 percent to the Natural Heritage Trust Fund. Additional revenue is allocated from a portion of the fees from personalized license plates as well as investment earnings credited to the assets of the fund.

Pursuant to G.S. 113-44.15, the money from the Parks and Recreation Trust Fund is to be allocated as follows:

(1) Sixty-five percent (65 percent) for the State Parks System for capital projects, repairs and renovations of facilities and to acquire land.

(2) Thirty percent (30 percent) to provide grants to local governments on a dollar-for-dollar basis to create or improve parks and recreational projects.

(3) Five percent (5 percent) for the Coastal and Estuarine Water Beach Access Program.

(4) No more than three percent may be used by the Department of Environment and Natural Resources (DENR) for the operating expenses associated with managing capital improvements projects, acquiring land, and administering the grants program for local governments.

2.0 North Carolina Parks and Recreation Authority

The North Carolina Parks and Recreation Authority, a 15-member board which oversees the Parks and Recreation Trust Fund, was created by the General Assembly with the Authority's powers and duties becoming effective July 1, 1996. The membership on the board was expanded from 11 to 15 in 2007. The Governor appoints five members, including the chairperson. The General Assembly appoints 10 members, five upon the recommendation of the President Pro Tempore of the Senate and five upon the recommendation of the Speaker of the House.

The Authority is charged with six powers and duties: 1) to receive public and private donations and funds for deposit into the trust fund; 2) to allocate funds for land acquisition; 3) to allocate funds for capital projects; 4) to solicit financial and material support; 5) to develop effective support for parks and recreation; 6) and to advise the Secretary of DENR on any matter he may refer to the body.

Members are appointed for three-year terms and may serve no more than two consecutive three-year terms. After serving two consecutive three-year terms, a member is not eligible for appointment to the Authority for at least one year after the expiration of the member's last term. The Parks and Recreation Authority held four meetings during fiscal year 2007-2008.

The 2007-2008 Parks and Recreation Authority members are:

Jonathan Howes, Chairman
Chapel Hill

Timothy L. Aydlett
Elizabeth City

Wendell Begley
Black Mountain

Thomas Blue
Southern Pines

Daryle Bost
Winston-Salem

Robert Epting
Chapel Hill

Cody Grasty
Maggie Valley

Eddie Holbrook
Shelby

Ron Kincaid
Mount Gilead

Boyd Lee
Greenville

Philip McKnelly
Raleigh

Cynthia Tart
Oak Island

Lisa Weston
Belmont

Hollis Wild
West Jefferson

Edward Wood
Wilmington

3.0 Parks and Recreation Trust Fund Summary

The Parks and Recreation Trust Fund (PARTF) is housed within the Division of Parks and Recreation, which operates the North Carolina State Parks System. The Parks and Recreation Authority allocates PARTF revenue to the state parks capital improvement and land acquisition projects. This board also selects the recipients of the grants to local governments to create or improve parks and recreational projects. The Division of Parks and Recreation, under Lewis Ledford, Division Director, develops priorities for the state parks system and recommends projects for the board's approval. Once the board has allocated the PARTF funds, the Division manages the projects for state parks and for the grants program.

The Division of Parks and Recreation transfers 5 percent of PARTF revenue to the Division of Coastal Management (DCM) for the Coastal and Estuarine Water Beach Access Program. The Division of Coastal Management, under Division Director Jim Gregson, administers these funds and offers matching grants to local governments throughout the 20 coastal counties. Table 3-1 shows the revenues received into the Parks and Recreation Trust Fund and the allocation of revenues by program for Fiscal Year 2007-2008

Table 3-1. Parks and Recreation Trust Fund Deposits and Distribution of Revenues Fiscal Year 2007-2008

Deposits	Amount
Total 2007-2008 PARTF Revenues	**$ 52,481,200**
Personalized Registration Plates	$ 1,445,813
Investment Income	$ 2,359,502
Excise Tax	$ 48,675,885
Distribution	**Amount**
Public Beach and Coastal Waterfront Access Program	$ 2,624,060
Local Governments Matching Grants Program	$ 15,407,771
State Parks System	
Land Acquisition	$ 13,543,122
Capital Improvements	$ 18,083,320
COPs Repayment	$ 1,757,061
Administrative Expenses	
Contract with NCSU - Recreation Resources Service	$ 361,115
Division of Parks & Recreation staff and Authority members	$ 704,751

4.0 Grants Program for Local Governments

4.1 *Program Description*

The Parks and Recreation Trust Fund (PARTF) program provides dollar-for-dollar grants to local governments. All counties, incorporated municipalities and public authorities (as defined in N.C.G.S. 159-7) are eligible for funding. Two or more local governments may apply jointly. Recipients can acquire land to be used for public recreation or to protect the natural or scenic resources of the property. Recipients can also use a grant to build or renovate recreational and support facilities. All facilities must serve the general public.

In September, the Division of Parks and Recreation (DPR) mails a description of the PARTF program and a schedule to local governmental officials and parks and recreation directors. A local government can request a maximum grant amount of $500,000 in PARTF assistance with its grant application. The approved value of land that is donated to a local governmental unit or public authority may be applied to the 50 percent matching requirement.

The DPR provides assistance to local governments in several ways. In October, the PARTF staff conducts a workshop where local governments can learn about the program and how to complete an application. The workshop is presented simultaneously at University of North Carolina video conference sites. The DPR has a contract with the Recreation Resources Service (RRS) at North Carolina State University. The staff of RRS provide technical assistance to local governments who request help in planning projects and preparing grant applications. RRS has six consultants in regional offices across the state.

The members of the Parks and Recreation Authority select which applicants will receive a grant. The factors considered by the Authority as it selects recipients include, but are not limited to, the criteria contained in the PARTF scoring system, the population of the applicant, the geographic distribution of projects across the state, the presence or absence of other funding sources and compliance with prior grant agreements.

Applications are due January 31. The Parks and Recreation Authority meets in May to select recipients from PARTF revenues received for the first three-quarters of the fiscal year. The Authority meets in early July to select grant recipients from PARTF revenues received during the fourth quarter of the fiscal year.

4.2 *Description of Applications and Grants*

The PARTF revenues allocated to local grants for fiscal year 2007-2008 were $15,407,771. Eighty-nine units of local government submitted PARTF applications requesting a total of $27.2 million in PARTF assistance. The Authority awarded 44 grants for $16,426,029. The difference between the amount awarded and the fiscal year revenues is $882,516 from various cancelled projects, reductions in the scope of work or projects completed under budget.

Table 4-1 shows a list of the projects approved for fiscal year 2007-2008. The table is organized alphabetically by recipient.

4.3 *Geographic Distribution of Grants*

The members of the Parks and Recreation Authority consider the geographic distribution of funds across the state as one of the factors used in selecting grant recipients. Since 1995, the Authority has awarded more than $123 million in PARTF grants to 586 projects in 99 counties across North Carolina (Figure 4-1). Figure 4.2 presents the distribution of PARTF grants by county for the current fiscal year.

Table 4-1. North Carolina Parks and Recreation Trust Fund Grants Fiscal Year 2007-08

Applicant	County	Project	Grant Amount
Ahoskie	Hertford	Ahoskie Creek Recreational Complex	$500,000
Alamance County	Alamance	Alamance County Greenway	$400,000
Albemarle	Stanly	E.E. Waddell Community Center	$499,979
Avery	Avery	Avery Community Park	$376,125
Black Mountain	Buncombe	Lake Tomahawk Park	$500,000
Buncombe	Buncombe	Owen Park Renovation	$23,107
Cameron	Moore	Phillips Memorial Park	$30,000
Carteret	Carteret	Newport Park	$500,000
Chatham	Chatham	Northeast Community Park	$500,000
Cleveland	Cleveland	Kings Mountain Gateway Trail	$500,000
Conetoe	Edgecombe	Conetoe Town Park	$65,000
Edenton	Chowan	Meadow View Dairy Farm Park	$500,000
Elizabeth City	Pasquotank	South Park Sports Complex	$500,000
Forest City	Rutherford	Cool Springs Recreation Center Renovation	$150,000

Franklin	Franklin	Pilot Lion Community Park	$500,000
Gamewell	Caldwell	Gamewell Park	$185,503
Gaston County	Gaston	Poston Park Lake Project	$500,000
Greensboro	Guilford	Gateway Gardens	$500,000
Harnett County	Harnett	Barbecue Creek Park Improvements	$500,000
High Shoals	Gaston	High Shoals Park	$34,925
Hoke	Hoke	Community Center Project	$500,000
Jamestown	Guilford	Center City Park Land Acquisition	$55,863
Kenansville	Duplin	Kenan Park Improvements	$267,177
Kure Beach	New Hanover	Oceanfront Park Property Acquisition	$500,000
Lillington	Harnett	Lillington Recreational Facility	$500,000
Lincoln	Lincoln	Rock Springs Park/Pine Ridge	$500,000
Marion	McDowell	Catawba River Greenway-Phase I	$167,300
Morganton	Burke	Catawba River Soccer Complex Phase II	$385,000
Mount Airy	Surry	Ararat River Greenway Phase II	$500,000
Nags Head	Dare	Whalebone Park	$500,000
Oak Island	Brunswick	Yaupon Fishing Pier	$500,000
Person	Person	Mayo Park Environmental Education Center	$327,500
Pitt	Pitt	Pitt County District Park - Phase II	$100,000
Polk	Polk	Alexander's Ford Project	$500,000
Rutherfordton	Rutherford	Lights for Crestview Park Ball Fields	$100,000
Selma	Johnston	Richard Harrison Recreation Center Improvements	$291,000
Smithfield	Johnston	Smithfield Recreation & Aquatic Center - Phase II	$451,950
Stokesdale	Guilford	Stokesdale Town Park	$500,000
Surf City	Pender	Surf City Recreational Park	$212,950
Surry	Surry	Shoals Community Park	$477,000
Transylvania	Transylvania	Connestee Falls	$325,650
Union	Union	Jesse Helms Park (Passive Area) Phase 2	$500,000
Wagram	Scotland	Wagram Recreation Center	$500,000
Winterville	Pitt	Recreation Park Redevelopment Phase I	$500,000
Total			**$16,426,029**

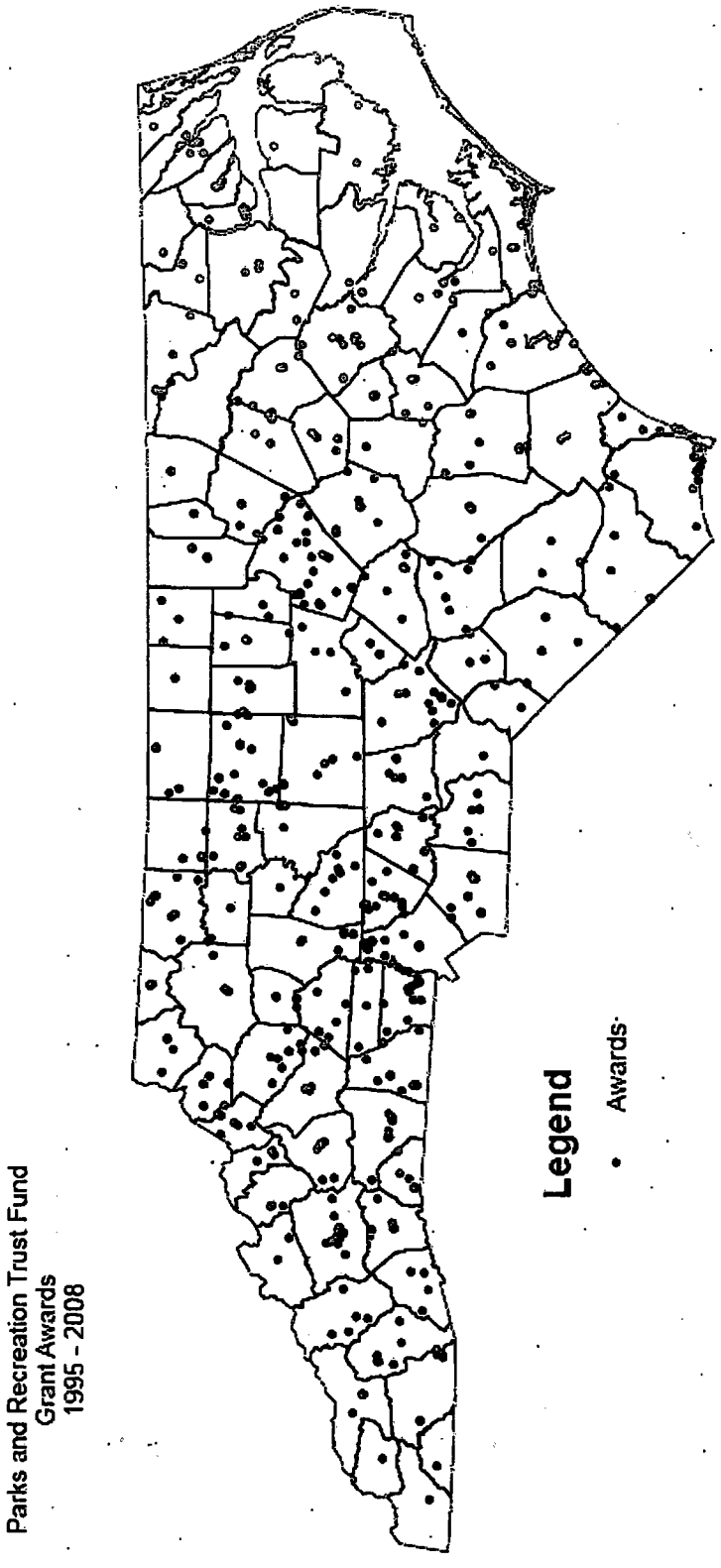


Figure 4-1. Distribution of PARTF Grants by County 1995-2008

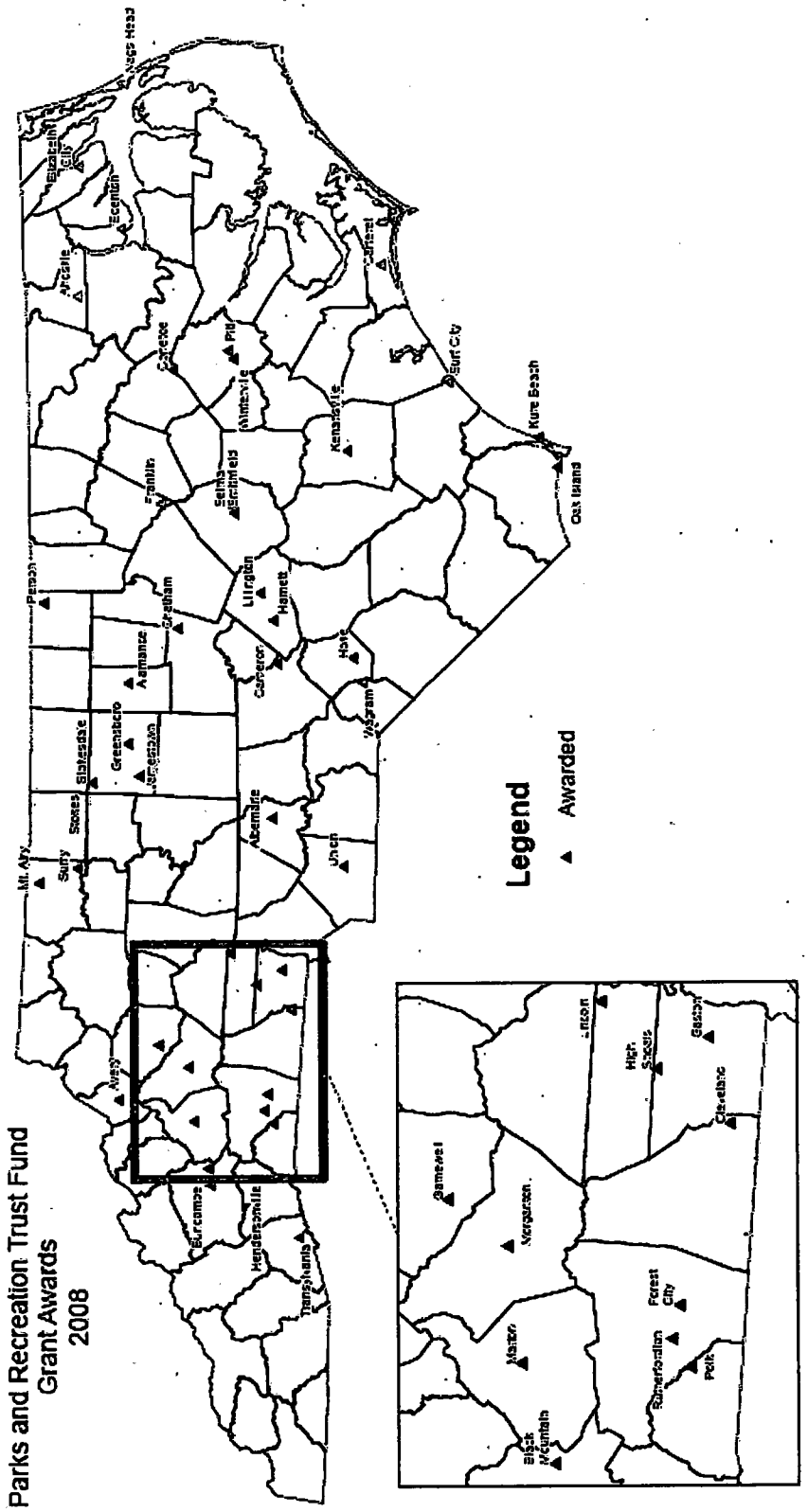


Figure 4-2. Distribution of PARTF Grants by County from 2008 Grant Cycle

Examples of Local Government Projects Funded by NC Parks and Recreation Trust Fund

Harnett County – Town of Lillington

The Lillington Recreational Facility project will provide the town's first indoor recreation space. The 6,000-square-foot facility will be located on a 21-acre site that has been donated to the town for a public park. The park and recreation center will help address the recreation needs of approximate 20,000 persons who live in and around this rapidly-growing community. The buildings will include an exercise and fitness room, a technology room oriented toward recreation users, a crafts and cultural activities area, as well as a kitchen.

Pasquotank County - Elizabeth City

The South Park Sports Complex is a joint effort between the Elizabeth City and Pasquotank County parks and recreation departments. This project will be located on property purchased with a previous PARTF land acquisition grant. The sports complex will feature five ball fields for youth baseball and softball, batting cages, a playground, a picnic area, and a multi-purpose trail. All of these facilities will be connected by walkways that are accessible according to Americans with Disabilities Act guidelines.

McDowell County - City of Marion

The Catawba River Greenway, Phase I project is the initial segment of City's efforts to establish a greenway for its citizens. The city has received a generous gift of five acres along the Catawba River, an ideal location for the greenway. When completed, the area will provide a variety of recreational activities. Phase I calls for nearly a mile of trail, picnic area, pier, canoe launch, wildlife observation deck and parking.

5.0 State Parks Program

5.1 *Land Acquisition*

For fiscal year 2007-2008, the Parks and Recreation Authority approved $13,543,122 for land acquisition projects in the state parks system (Table 5-1). These projects will help address the need for additional acreage at 15 state parks. However, it will cost an estimated $176 million to purchase the 43,752 acres needed to complete all of the current state park units.

Table 5-1 Division of Parks and Recreation
Land Acquisition Projects for FY 2007 - 2008

Unit	Acres	Approved Cost	Description
Chimney Rock State Park	181	$ 3,880,000	Tracts on Rumbling Bald, Round Top Mountain and next to Chimney Rock Park to protect natural and scenic resources
Eno River State Park	42	$ 600,000	River corridor tracts for resource protection and public trails
Lake Norman State Park	115	$ 2,323,400	Tract to expand land base for trails and to protect water quality
Lake Waccamaw State Park	3	$ 372,000	Tract to provide public access to Lake Waccamaw on east side. Property includes boat ramp.
Mayo River State Park	350	$ 1,028,000	Mayo River corridor tracts and Cedar Mountain tracts.
Medoc Mountain State Park	60	$ 150,000	Buffer tracts and access control.
Mount Jefferson State Natural Area	34	$ 300,000	Tract for resource protection on the slopes of Mount Jefferson
New River State Park	22	$ 750,000	River corridor tracts for resource protection and public access
Raven Rock State Park	139	$ 800,000	Inholding near Cedar Rock and resource protection tracts on south side.
South Mountains State Park	459	$ 2,336,000	Multiple tracts in Henry Fork and on the west side of the park for resource protection
Associated Expenses	n/a	$ 1,003,122	Land expenses such as surveys, appraisals, title work, interest payments and other overhead expenses.
Total	**1,405**	**$13,543,122**	

Some highlights include acquisition of 181 acres at Chimney Rock State Park to protect scenic and natural views, and 115 acres at Lake Norman State Park to expand the trail park's trail system and protect water quality of the lake. However, it will cost an estimated $176 million to purchase the 43,752 acres needed to complete all of the current state park units.

Through its "New Parks for a New Century" initiative, the Division of Parks and Recreation has identified over 40 sites across the state that could be added as potential state park units. These areas are some of the most treasured and threatened natural resources in North Carolina and have been identified as high-priority acquisitions to the state parks system. Purchasing these new units would require an estimated $454 million to acquire 113,625 acres.

Land Acquisition Projects for the State Parks System
Funded by NC Parks and Recreation Trust Fund

Orange County - Eno River State Park

The Eno River is a nationally-significant aquatic system. The state has been working on protection the river corridor since the early 1970s. The three tracts to be purchased are adjacent river. Two are near Cabes Ford, which may be used as a trail crossing for the state park trails in the future. The third tract is near the Lawrence Road crossing of the river. All three tracts protect the riparian buffer of the Eno River and its tributaries as well as provide connections for trails along the river.

Burke County - South Mountains State Park

South Mountains State Park is part of the nationally significant South Mountains range. This acquisition project consists of tracts in three different parts of the state park: the Jacobs Fork and Henry Fork watersheds as well as the Hall Knob area. The properties are key pieces for the protecting the park's natural resources as well as locating facilities.

Ashe and Alleghany Counties - New River State Park

The South Fork of the New River is a state and federal scenic river. Protection by the state began in the early 1970s. This project will purchase several tracts in the river corridor identified as high priority sites to provide scenic protection and visitor use of the river.

5.2 *Construction and Renovation*

During fiscal year 2007-2008, the Parks and Recreation Authority approved state park construction and renovation projects totaling $18,083,320 (Table 5-2). With PARTF funds, the Division continues to address a lengthy backlog of construction and renovation projects in the state parks system. However, approximately $335.4 million is required to meet all of the needs for new construction and renovation for state parks.

Table 5-2 Division Parks and Recreation Trust Fund Capital Projects for Fiscal Year 2007-08

Park	Description	Cost
Park System	Major Maintenance Funds	$ 1,200,000
Park System	Trail Maintenance Funds	500,000
Park System	Statewide Construction Reserve	864,550
Carolina Beach State Park	Marina Dredging/Facility Improvements	2,300,000
Chimney Rock State Park	Trail Structure, Cistern, & Emergency Generator Improvements	865,550
Cliffs of the Neuse State Park	Visitor Center & Eastern District Office	3,299,260
Gorges State Park	Phase I-B: Visitor Center, Sewer, Picnic Area, Maintenance Area (Design Only)	695,900
Haw River State Park	Brown Summit Center Repairs/Renovations (Cottage 400)	450,000
Kerr Lake State Recreation Area	Henderson Point Campground Improvements	1,769,639
Morrow Mountain State Park	Shoreline Improvements & Boathouse Replacement	1,152, 596
Mount Mitchell State Park	Water System Improvements	450,000
Pettigrew State Park	New Maintenance Area & Conversion of Existing Area to Staff/Public Space	844,889
Pettigrew State Park	Pocosin Natural Area Improvements	101,970
Raven Rock State Park	Visitor Center & Picnic Area	3,588,966
TOTAL		**$18,083,320**

Capital Improvement Projects for the State Parks System
Funded by NC Parks and Recreation Trust Fund

Wayne County - Cliffs of the Neuse State Park Visitors Center

Cliffs of the Neuse State Park was established in 1945 when land on the south side of the Neuse River was donated through the Wayne Foundation. Additional purchases and donations increased the park to its present size of 890 acres. Today, the park office consists of a 600-square-foot building built in the 1950s. The park also services as the East District office which operates from a converted maintenance warehouse facility.

The new visitor center project includes an entrance road with 30-car parking lot, a 7500-square-foot building to house exhibits, an auditorium, a classroom, lobby area, and administrative office space for both the park and the district staff.

Harnett County - Raven Rock State Park Visitors Center & Picnic Area

The current visitor contact station is a converted single-wide mobile home. This project will construct a new visitor center that includes a museum-quality exhibit area, an auditorium, classroom, and office space for staff. Also included is expansion of the existing picnic area by adding two 12-table shelters, 10 individual picnic sites, parking lot expansion, and entrance road improvements.

Stanley County - Morrow Mountain State Park Boathouse Replacement

The existing boathouse serves visitors who use Lake Tillery and the Yadkin / Pee Dee rivers, but it is failing structurally. The project scope will include demolition and replacement of the boathouse, which also serves as a restroom and concession area. In addition to replacing the boat house, improvements will be made to the courtesy dock by adding mooring space for 6-8 boats, installing connecting ADA walkways, and installing one ADA boat launch ramp.

Special Financing for Projects in State Parks

In 2007, legislation approved by the General Assembly and Governor authorized the issuance of special indebtedness using certificates of participation (COPs) for land acquisition in the state parks system. The indebtedness is to be repaid by future PARTF revenue. A maximum amount of $50 million is to be used to finance the cost of land acquisition for the expansion of the State Parks System and the Mountains to the Sea Trail. The land acquisitions are to support the conservation priorities set out by the One North Carolina Naturally Program.

The Parks and Recreation Authority approved 11 projects totaling $50 million using the COPs funding (Table 5-3).

Examples of Projects Financed through the Certificates of Participation (COPs)

Rutherford County - Chimney Rock State Park

The Chimney Rock State Park project area contains many natural resources of national significance. The site was identified by the New Parks for a New Century planning effort and was authorized as a new state park by the General Assembly in 2005. This acquisition project will help to protect the resources around the Bottomless Pools between Chimney Rock Park and Cane Creek Mountain. The tract contains the plunge pools known as the Bottomless Pools, which was an attraction in the Town of Lake Lure for many years.

Guilford County - Haw River State Park

Located near the headwaters, Haw River State Park and Summit Environmental Education Center is situated on nearly 300 acres of piedmont forest, fields, wetlands, and uplands. This project adds nearly 1,000 acres to provide further resource protection of the Haw River corridor and recreational opportunities for park visitors. Future recreation opportunities are to include picnicking, camping, and hiking. The Haw River corridor is also a proposed route for the Mountains-to-Sea Trail.

Guilford, Alamance, Orange, Wake and Johnston Counties – The Mountains-to-Sea Trail

The Mountains-to-Sea Trail is an effort to link by trail Clingman's Dome in the Great Smoky Mountains National Park to Jockey's Ridge State Park on the Outer Banks. The trail is the flagship project of the NC State Trails System. Today, over 450 miles of the 1,000 mile route are open for use. These acquisitions, along with future partnerships across North Carolina, will eventually link communities together and to serve as the backbone for a growing system of land and water trails.

Table 5-3 Certificates of Participation (COPS) North Carolina Division of Parks and Recreation Land Acquisition Projects for FY 2007 – 2008			
Unit	**Acres**	**Approved Cost**	**Description**
Chimney Rock State Park	244	$5,500,000	Bottomless Pools, Bat Cave and Round Top Mountain tracts for resource protection
Elk Knob State Park	2,269	$13,100,000	Long Hope Valley property for natural and scenic resource protection
Deep River State Trail	73	$500,000	Tracts near White Pines for water quality and natural resource protection
Elk Knob State Park	309	$3,826,000	Snake Mountain and Elk Knob tracts for natural and scenic resource protection
Eno River State Park	20	$500,000	Resource protection tracts at the Pump Station access of the state park
Haw River State Park	800	$17,000,000	Key tracts in core area of state park, both up and down stream of the Summit
Mountains-to-Sea State Trail	200	$2,000,000	Alamance County keystone tracts for state trail north of I-40
Mountains-to-Sea State Trail	250	$3,000,000	Guilford County keystone tracts for state trail between Greensboro Lake and Haw River
Mountains-to-Sea State Trail	350	$985,000	Orange County tracts upstream of state park along the Eno River for state trail
Mountains-to-Sea State Trail	212	$2,589,000	Tracts along the Neuse River where Marks Creek joins the river for state trail
Mount Mitchell State Park	65	$1,000,000	Tracts for natural and scenic protection of the Black Mountains
Totals	**4,792**	**$50,000,000**	

Repayment of COPs Indebtedness

The Parks and Recreation Authority may allocate up to 50 percent of the portion of the Parks and Recreation Trust Fund dedicated for projects in state parks to repay the debt. The PARTF revenue designated for grants to local governments cannot be used to repay debt. This year's principal plus interest payment for COPs indebtedness issued in 2005 is $1,757,061. These funds repay $11,381,000 for projects approved by the Parks and Recreation Authority in Fiscal Year 2004-05 and $8,701,616 approved for projects in Fiscal Year 2005-06.

Pursuant to Session Law 2007-323, the Parks and Recreation Authority approved the repayment of up to $20 million for projects approved under the Waterfront Access and Marine Industry (WAMI) Fund from the state parks portion of PARTF. Repayment of the WAMI projects funds will begin after Fiscal Year 2007-08.

6.0 Public Beach and Coastal Waterfront Program

6.1 Program Description

North Carolina's Public Beach and Coastal Waterfront Access Program was established by the General Assembly in 1981. In fiscal year 1996-97, the program began receiving 5 percent of the revenues from the Parks and Recreation Trust Fund. The program enabling legislation (GS 113A-134.1) states that public purpose would be served by providing increased access to coastal waters, public parking facilities, or other related public uses.

The program provides matching grants to local governments for low-cost capital projects designed to improve pedestrian access to the state's beaches and waterways. The program, administered by the Division of Coastal Management (DCM), offers matching grant funds to local governments throughout the 20 coastal counties. Since 1981, over 300 public access sites have been either constructed or improved at a cost of over $30 million. The majority of the grant projects are managed by local governments who are responsible for construction, operation and long-term maintenance of the facilities. While most of the early projects were located along the oceanfront, more and more projects are now designed to improve access to estuarine shorelines, coastal rivers, and urban waterfronts.

The Division of Coastal Management sends pre-application requests for proposals (RFPs) to local governments in the 20 coastal counties in the fall of every year. Select communities are then invited to submit a final application with communities prioritized for funding being accomplished in May of every year. Recipients are usually selected in July and contracts are awarded in between September and January. Grant recipients have 18 months to complete their projects. However, extensions are granted for un-foreseen events and delays such as hurricanes. The maximum life of a contract with extensions is three (3) years.

The division uses criteria developed by the Coastal Resources Commission to select grant recipients. Local governments are required to match from 10 percent to 25 percent of the project costs depending on whether the request is for acquisition of land or improvements, as well as the communities' economic status.

The required match, based on recent rule changes, may include Federal and other State funds to be used as the local government cash contribution provided such funds are not already being used as matching funds for other state and federal programs. Minimum match requirements are based on the economic status of the local government per the North Carolina Department of Commerce's Tier designations, as outlined by the Lee Act (G.S. 105-129.3). Counties designated as Tier 1 and the municipalities located within them are considered economically distressed. Projects that are listed on Table 6.1 denoted by an (*) are able to take advantage of a lower match requirement.

6.2 Types of Projects Funded

Communities can apply for five different types of water access sites: local, neighborhood, regional, multi-regional and urban waterfront redevelopment projects.

- Local access sites include public access points, offering minimal, or no facilities. Pedestrians who reside within a few hundred yards of the site primarily use them. Generally, these access ways are a minimum of ten feet in width providing only a dune crossover or pier. Vehicle parking is generally not available at these access sites. Bicycle racks may be provided as well as litter receptacles and access signs.

- Neighborhood access sites are public access areas offering parking, usually for five to 25 vehicles, a dune crossover or pier, litter receptacles and public access signs. Such accesses are typically 40 to 60 feet in width and are primarily used by individuals within the immediate subdivision or vicinity of the site. Restroom facilities may be installed.

- Regional access sites serve the public throughout an island or community including day visitors. These sites normally provide parking for 25 to 80 vehicles, restrooms, a dune crossover, pier, foot showers, litter receptacles, and public access signs. Where possible, one-half acre of open space in addition to all required setback areas should be provided for buffering, day use, nature study or similar purposes.

- Multi-regional access sites are generally larger than regional accessways but smaller than state parks. Multi-regional facilities provide parking for 80 to 200 cars, restrooms with indoor showers and changing rooms, and concession.

- Urban waterfront redevelopment projects improve public access to urban waterfronts. Such projects include the establishment or rehabilitation of boardwalk areas, shoreline stabilization measures such as the installation or rehabilitation of bulkheads, and the placement or removal of pilings for the purpose of public safety and/or increased access and use of the urban waterfront.

Additionally as part of rule changes that took affect in 2007, boat ramps and motorized boating facilities may be included as part of any of the above types of access provided the pedestrian access is also part of the project.

6.3 *PARTF Revenues and Awards Based on 2007-2008 Fiscal Year Deposits*

The actual amount transferred from the PARTF fund to DCM during fiscal year 2007-2008 was $2,624,060. Including carryover funds, cancelled contracts and those completed under budget, the total funds available for awards was $5,475,696.

The DCM received 37 pre-applications from 24 local governments requesting over $8,230,000 in funds. Table 6-1 provides the list of local governments prioritized to receive funding following review of final applications. Two of the listed projects (Pender and Dare County), have received WAMI funding (w) totaling $1,135,365; a third is an accessory project to the Jeannette's Pier project ($568,500).

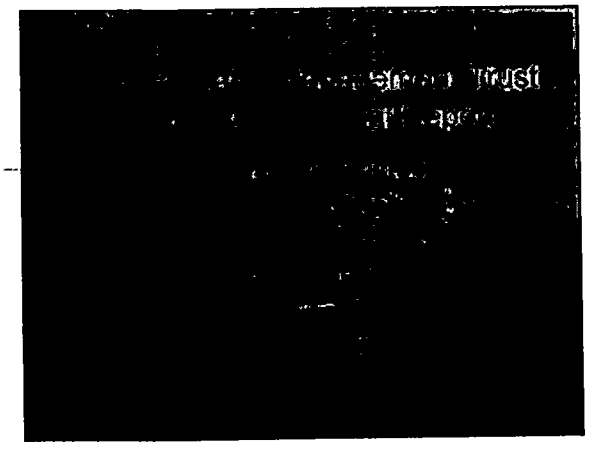
Table 6-1 Communities Prioritized for 2007-2008 Funding Based on 2007-2008 Deposits and Other Available Funds

Local Government	Project Name	Grant Requests	Total Cost w/Match
Ahoskie *	Recreational Land Acquisition Phase II	$96,017	$106,685
Beaufort County *	Cotton Patch Landing Public Access	$500,000	$700,000
Carolina Beach	Cape Fear Blvd. Access Enhancement	$100,000	$200,000
Carteret County	Cedar Point Boat Ramp	$300,000	$850,00(
Dare County (w)	Manns Harbor Marina	$335,365	$4,256,51
Edenton	Public Waterfront Property Renovation Project	$13,374	$17,832
Hertford	Lower Perquimans River Kayak/Canoe Launch	$8,943	$11,924
Jacksonville	Sturgeon City	$300,000	$400,000
Kure Beach	Oceanfront Park Land Acquisition	$600,000	$3,625,080
Leland	Sturgeon Creek Land Acquisition	$168,000	$210,000
Nags Head (w)	Whalebone Park	$568,500	$1,068,500
Navassa	Davis Creek Regional Access Phase II Improvements	$117,221	$156,295
Oak Island	Yaupon Pier Acquisition	$300,000	$1,008,000
Onslow County	Oakhurst Nature Park	$52,275	$69,700
Oriental	Hodges Street Pier	$12,750	$17,000
Pender County (w)	Hampstead Waterfront Access and Park	$800,000	$10,000,000
Sunset Beach	Waterway Park Public Access	$500,000	$2,250,000
Totals		**$4,772,445**	**$24,947,531**

(w) WAMI related projects (*) Economically Distressed Communities Totals may be adjusted during the final contract process.

The above-prioritize $4,772,445 for grant contracts that will begin either the fall of 2008 or January 2009. Additionally $500,000 is held in reserve for the future Aquarium Emerald Isle Pier project, and a $100,000 for a previously awarded Fort Fisher project. *Total funds budgeted $5,392,445.*

No PARTF funds are used for administrative costs associated with the grant program. The only non-award costs are about $20,000 a year used for access site signs made by the State Department of Corrections. Signs are provided for new sites as well as existing ones which regularly require replacement due to weathering and storm events.



The Clean Water Mission

- Restore/enhance degraded waters
- Protect/conserve unpolluted waters
- Eliminate water pollution
- Create a network of riparian buffers and greenways
- Fund innovative systems as demonstrations
- Not strictly conservation

Alligator River

cleanwater

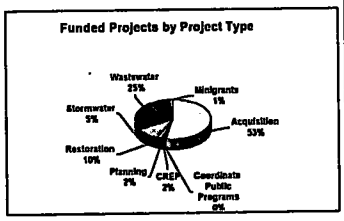
CWMTF Funded Projects

- 1,344 grants since 1997
- Over $943.3 million awarded
- Projects in 98 Counties
- 415 Grants to Municipalities

cleanwater

CWMTF Funded Projects 1997-2008

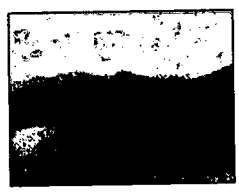
- Over $503.1 million invested in land and water conservation
- 159 buffer, stream and wetlands restoration projects funded totaling over $94.6 million



cleanwater

The Trust Fund's Accomplishments - by the Numbers

- 4,859 miles of buffers preserved
- 454,944 acres protected
  - –10 Trips from Murphy to Manteo
  - –333,000 Football Fields
  - –6% of NC's Streams



Waynesville Watershed

cleanwater

Matching Funds

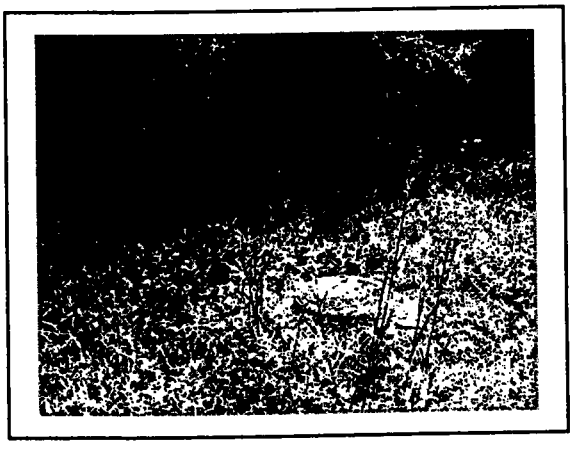
1997-2008

$943.3 Million

$1.460 Billion

Total Amount CWMTF Funded Total Amount Match

cleanwater



CWMTF Focus...

- Innovative Stormwater Management Update
  - SB 1468
  - $8.6 Million in RFP requests
  - 32 RFPs received
  - $5 million available;awarded in February
- Improved Organizational Management
  - Four months = contracts out the door
  - Money appropriated in August; grants awarded by November; contracts out by February
  - 150 contract per year on average
- Greenways
  - Development and implementation of program established
  - Increase presence in Piedmont/Urbanized areas

cleanwater

CWMTF Focus...

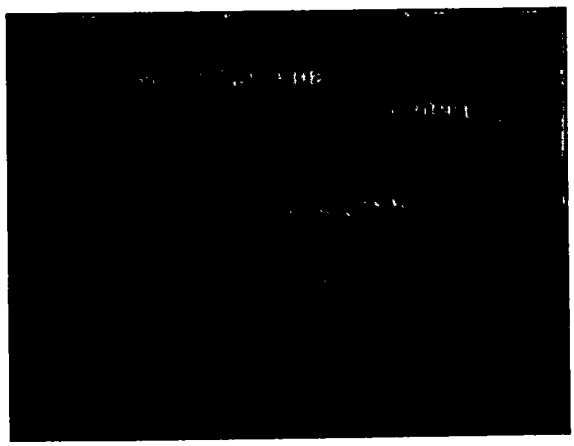
- CWMTF's Importance to NC's Economy:
  - $16.5 Billion Tourism Economy
  - $144 Million Fisheries Economy
  - $71 Billion Agriculture Economy
  - $6.1 Billion Forest Products Industry
  - $23 Billion Military Economy
- Infrastructure Funding
- Resource to cities and counties
- Key to health of citizens

February 25, 2009

- Executive Order #6
- $100M Transferred back into the General Fund

Where We Are

- 192 projects approved in 2008 on hold:
  - Wastewater: $26.2 M
  - Stormwater/Restoration: $16.8 M
  - Acquisition: $55.8 M



NORTH CAROLINA

NATURAL HERITAGE TRUST FUND

Update for House Committee
on Environment & Natural Resource
Lisa Riegel
Executive Director
March 10, 2009

MISSION

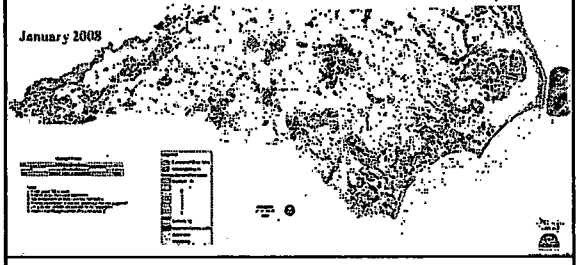
protect natural & cultural heritage lands

- Recreation, scientific, education, cultural and aesthetic purposes
- Additions to state parks, trails, forests, wildlife areas
- Historic properties program
- Other beneficial use and enjoyment by the public

Natural Heritage Program

- ID most important natural areas in state
- 83 of 100 Counties complete; 6 ongoing
- Statewide Conservation Planning Tool (Map)

One NC *Naturally* Conservation Planning Tool



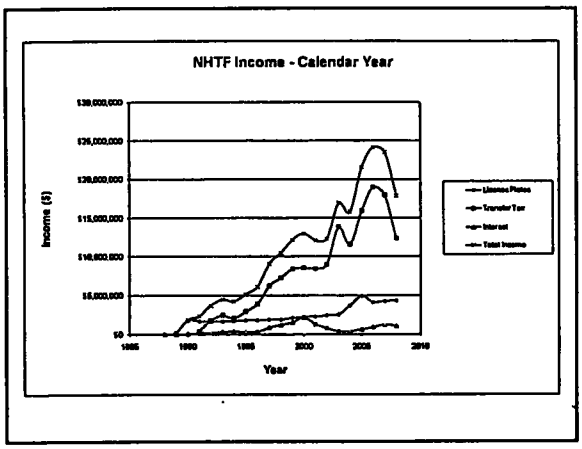
Biodiversity / Wildlife Habitat Assessment

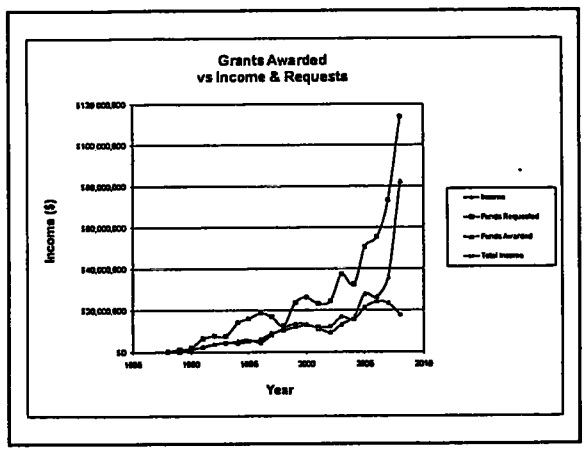
Program Overview

- Established 1987
- 12 member citizen board
- Accepts applications from 4 state agencies: DENR, DoACS, DCR, WRC
- Awards - twice a year

NHTF 2008 Income

Real Estate Tax	$12,357,922
License Plate Fee	$ 4,379,840
Interest	$ 1,112,639
Total	**$17,850,401**

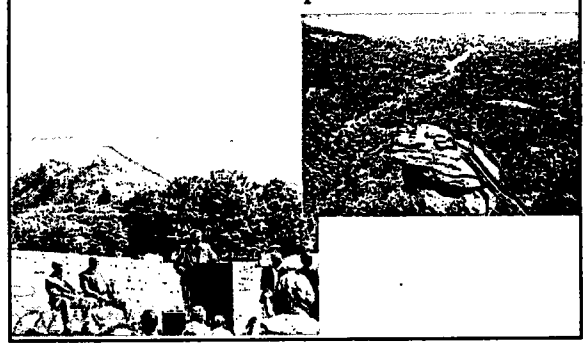




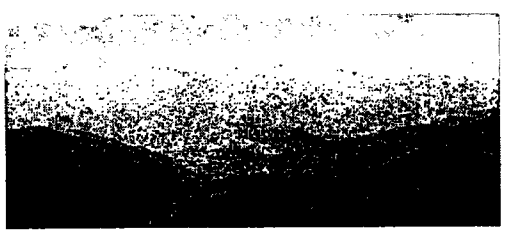
2008 Awards

- 49 Projects
- >22,000 Acres
- $82,675,345

Iconic Acquisitions



Additional Tracts at Existing Parks
Mt. Mitchell State Park



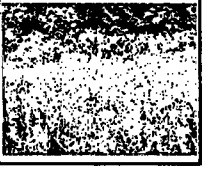
Gorges State Park

Plant Conservation Program Protection Projects

All tract purchases are designed to contribute to the long-term survival and viability of North Carolina's native plants.

PCP relies on Natural Heritage Program information to establish priorities.

Eno River Diabase Sill Plant Conservation Preserve



Tater Hill Plant Conservation Preserve

Boosting the Economy

- Military - $18 billion
- Fisheries - $1 billion
- Tourism – visitors spend $16 billion+ and $1.3 billion in state and local tax revenue
- Outdoor and wildlife-related recreation - $4.3 billion
- Ag/Forestry $70.8 billion
- A clean and healthy environment attracts business and industry

Cultural Resources

Horne Creek State Historic Site Land Acquisition

Pinnacle, Surry County

Military Buffer

- Key Connector
- 263 acres
- Leveraged with $208,000 Military (federal) funds; $636,000 NHTF funds
- RCW habitat, gameland/ recreation, protects encroachment onto Camp Mackall

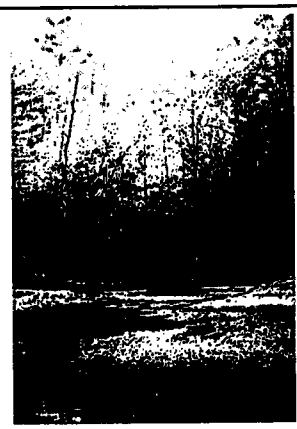
Carver's Creek – Military Buffer

WRC – Chowan River
Aquatic Habitat, Fisheries

- Nationally Significant Aquatic Habitat
- Last of the IP projects closed in 2008
- A multi-year, multi-trust fund endeavor
- $80 million – 80,000 acres of prime river protection in Roanoke, Upper Tar, Juniper Cr and Chowan Rivers

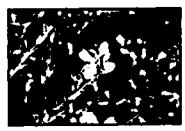
Lutz Tract – Wilson Creek

- Nationally Significant and designated Wild and Scenic River
- Community– County Commissioner enthusiastically approached us for support
- Caldwell County, $7.9MM, 649 acres
- CWTMF, Owner bargain sale



Healthy, Happy Lives

- Provides source of inexpensive, quality, close-to-home recreation
- Protected open space maintains air/water quality
- Quality of life issues for citizens
- Protects cultural and rural heritage



Additional Information

Lisa.riegel@ncmail.net
www.ncnhtf.org
(919) 715-8014

In North Carolina the number of farms and farmland has been steadily declining. 5,500 farms and 300,000 acres of farmland have been lost since 2003. **Since 1990 North Carolina has lost 900,000 acres of farmland and 14,000 farms.***

With each loss of an acre, North Carolina loses products that once contributed to our economy. **North Carolina needs a flexible farmland conservation program to meet today's challenges.** The NC Agricultural Development & Farmland Preservation Trust Fund will help secure these farms with grants for programs that promote sustainable agriculture, agricultural agreements, and conservation easements; giving farm businesses the resources needed to reinvest in their operations. The flexibility of these funds allows counties and nonprofits to tailor unique programs to their area of the state. Each year new ideas and new problems will face agriculture. The NC ADFP Trust Fund will be on the forefront of agriculture during these times of transition.

** Source data provided by USDA.*

North Carolina Agricultural Development & Farmland Preservation Trust Fund

1001 Mail Service Center
Raleigh, NC 27699-1001

Phone: (919) 733-7125
E-mail: ncadfp@ncmail.net

Visit our new website at:
www.ncadfp.org

2,500 copies of this document were printed at a cost of $255.52 or $.01 per copy.

North Carolina Agricultural Development & Farmland Preservation Trust Fund

"Preserving North Carolina's working family farms."

North Carolina Department of Agriculture & Consumer Services
Steve Troxler, Comm

In September 2005, the General Assembly passed House Bill 607 establishing the NC Agricultural Development and Farmland Preservation Trust Fund. The legislation also established a 19-member Trust Fund Advisory Committee to advise the Commissioner of Agriculture on the prioritization and allocation of funds, the development of criteria for awarding funds, program planning, and other areas for the growth and development of family farms in North Carolina.

How can the funds be used?

- Fund public and private enterprise programs that will promote profitable and sustainable farms by assisting farmers in developing and implementing plans for the production of food, fiber and value-added products, agritourism activities, marketing and sales of agricultural products produced on the farm, and other agriculture-related business activities.
- Fund farmland conservation agreements targeted at the active production of food, fiber and other agricultural products.
- Support the purchase of agricultural conservation easements, including transaction costs.

Eligibility

Who is eligible to submit proposals?
-Farm and forest landowners wishing to recieve grants must partner with a nonprofit conservation organization or county agency.

Matching Requirements
-Any nonprofit conservation organization must match 30 percent of the Trust Fund monies it receives with funds from sources other than the NC Agricultural Development and Farmland Preservation Trust Fund
-An enterprise tier two or three county (G.S. 143B-437.08) with a countywide farmland protection plan shall match 15 percent of the Trust Fund monies it receives with county funds. An enterprise tier one county (G.S. 143B-437.08) with a countywide farmland protection plan will not be required to match the Trust Fund monies it receives with county funds. Any county without a countywide farmland protection plan shall match 30 percent of the Trust Fund monies it receives with county funds.

Additional Considerations:
Priorities of funds will be given to projects that involve:

- Counties with Farm Protection Plans
- Goodness Grows farmers
- Enhanced Voluntary Agricultural District farmers
- Voluntary Agricultural District farmers
- Farms with Farm Transition Plans
- Farms with Conservation Plans
- Farms with Forest Management Plans
- Limited-resource farmers
- Beginning farmers
- Groups and individuals with other agricultural and forestry affiliations

All applicants must provide documentation of membership or status.

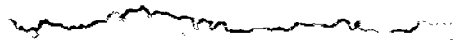
Benefits

- Preserving North Carolina's Number 1 Industry: North Carolina agricultural economy is an over $68 billion business annually. The NC ADFP Trust Fund plans to sustain this agricultural economy by preserving the lands that produce these products for our economy. The success of the program will maintain farm family income and retain/create agriculture-related jobs as well as increase public awareness about the importance of farm families to North Carolina's economy.

-Countywide Economic Benefit: An American Farmland Trust study showed that for every dollar in taxes received from working land, governments pay only 34 cents in services. However, services paid to residential development are an average of $1.15 per dollar of taxes received. Therefore farmland is a net gain of revenue for the tax base and thus an economic benefit for any county to preserve working lands.

-Quality of Life: When farms are kept in agriculture it maintains the quality of life that each North Carolinian enjoys every day. Rural working landscapes are an integral part of our heritage and economy that must be preserved for future generations. If we do not save our agricultural areas we will destroy the rustic landscapes that attract and retain people and industry to North Carolina.

-Environmental Services: Properly maintained farm and forest lands create and protect clean air, clean water, and wildlife habitat. Farm and forest lands are our water recharge areas and also sequester large amounts of carbon dioxide.



VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — March 10, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Cannon Henley	Electricities of NC
Alicia Davis	MWC
Colleen Kochanek	NCGWA
JOHN SHAW	WAKE UP WAKE COUNTY
Patrice Roesler	NCACC
Heather Barrett	Hunton & Williams
Nicholas Woodruff	Cluster
L. Andrews	NCFB

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — March 10, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
David Knight	DENR
Tom Cons	TNC
Julie B Corn	Copstrat
LISA SCHELL	CWMTF
Dan Crawford	CCNC
R Rogers	CWMTF
LISA RICCEL	NHTF
Adrienne McCaig	DENR
MIKE WATERS	NCRPA
Dewitt Hardee	NCDACS - ADFP-Trust
Edgar Miller	CTNC

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE MEETING

MARCH 19, 2009
12:00 NOON
Room 643 LOB

Representative Lucy T. Allen, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

SB 89 - Authorize Grandfather Mountain as State Park.
Primary Sponsor: Senator Queen

Update on Land for Tomorrow:
Tom Cors, Steering Committee Member
Land for Tomorrow

Committee Discussion

ADJOURNMENT

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

March 19, 2009

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Thursday, March 19, 2009, in room 643 of the Legislative Office Building. Representative Lucy T. Allen presided. Members present were: Representatives Gillespie, Harrison, Tarleton, and Underhill, Vice-Chairs; Representatives Alexander, Blackwood, Floyd, Gibson, Haire, Killian, Luebke, Martin, McComas, McElraft, Samuelson, Tucker, West, and Womble.

Representative Allen called the meeting to order at 12:00 noon. She began by introducing the pages: Madison Ayers, Mecklenburg County (sponsored by Representative Killian), Mariah Governor, Columbus County (sponsored by Representative Hill), and Sarah Austin, Columbus County (sponsored by Representative Hill). She next presented the Sergeant-at-arms staff: Carlton Adams, Earl Coker, James Worth, Frank Prevo, and Fred Hines

The single piece of legislation on the agenda was Senate Bill 89 – A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE ADDITION OF GRANDFATHER MOUNTAIN STATE PARK TO THE STATE PARKS SYSTEM. Representative Allen recognized Senator Queen to explain the bill. She then opened the floor for questions from committee members. Representative Luebke inquired about funding for the purchase. Once this question was satisfactorily addressed, Representative Haire made a motion, seconded by Representative Alexander, that the bill receive a favorable report from the committee and a recommendation that the bill be referred to the Committee on Appropriations. The motion passed unanimously.

At this point Representative Allen recognized Tom Coors, Steering Committee Member with Land for Tomorrow, to make a brief presentation explaining the nature of his organization. He talked about the issue of a growing population in North Carolina and the effect on land and water conservation. He distributed a copy of his remarks (attached) to committee members. Following his presentation, Representative Allen invited questions and comments from committee members. Issues regarding cost and specific areas of concern were addressed by Mr. Coors.

The committee was adjourned at 12:20 p.m.

Respectfully submitted,

Lucy T. Allen
Representative Lucy T. Allen, Chair

Shara Graham
Shara Graham, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 2

SENATE BILL 89

Agriculture/Environment/Natural Resources Committee Substitute Adopted 3-5-09

Short Title: Authorize Grandfather Mtn. as State Park. (Public)

Sponsors:

Referred to:

February 10, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ADDITION OF GRANDFATHER MOUNTAIN STATE PARK TO THE STATE PARKS SYSTEM.

Whereas, Section 5 of Article XIV of the North Carolina Constitution states that it shall be a proper function of the State of North Carolina to acquire and preserve park, recreational, and scenic areas and, in every other appropriate way, to preserve as a part of the common heritage of this State its open lands and places of beauty; and

Whereas, the General Assembly enacted the State Parks Act in 1987, declaring that the State of North Carolina offers unique archaeological, geological, biological, scenic, and recreational resources, and that such resources are part of the heritage of the people of the State to be preserved and managed by those people for their use and for the use of their visitors and descendants; and

Whereas, Grandfather Mountain in Watauga, Avery, and Caldwell Counties is known to be nationally significant for its excellent examples of many rare high elevation natural communities and an exemplary assemblage of rare plant and animal species; and

Whereas, Grandfather Mountain is an internationally recognized terrestrial ecosystem and is therefore designated as a Biosphere Reserve by the United Nations Educational, Scientific and Cultural Organization's Programme on Man and the Biosphere; and

Whereas, Grandfather Mountain is one of the most biologically diverse and significant sites in the Southern Appalachian region; and

Whereas, rare species found at Grandfather Mountain include Spreading avens, Roan Mountain bluet, Heller's blazing star, Blue Ridge goldenrod, Virginia big-eared bat, Carolina northern flying squirrel, the Spruce-fir moss spider, and many others; and

Whereas, Grandfather Mountain is also one of North Carolina's most important scenic landmarks and offers outstanding opportunities for wilderness recreation; and

Whereas, Grandfather Mountain has been found to possess geological, biological, and scenic resources of statewide significance; and

Whereas, the Council of State approved the purchase of Grandfather Mountain, to be operated as a State Park, and the Joint Legislative Commission on Governmental Operations approved the report of the State Property Office regarding acquisition of Grandfather Mountain by the State; and

Whereas, the proposal is for the acquisition of Grandfather Mountain to be funded through the Natural Heritage Trust Fund and the Parks and Recreation Trust Fund; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The General Assembly authorizes the Department of Environment and Natural Resources to add Grandfather Mountain to the State Parks System as provided in G.S. 113-44.14(b).

SECTION 2. The State shall purchase Grandfather Mountain with existing funds in the Natural Heritage Trust Fund and the Parks and Recreation Trust Fund, as previously approved by the Council of State and the Joint Legislative Commission on Governmental Operations. During the 2009-2011 fiscal biennium, the Department of Environment and Natural Resources shall, with funds available, operate Grandfather Mountain State Park.

SECTION 3. This act is effective when it becomes law.

SENATE BILL 89:
Authorize Grandfather Mtn. as State Park

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Appropriations	**Date:**	March 17, 2009
Introduced by:	Sen. Queen	**Prepared by:**	Jennifer McGinnis Committee Counsel
Analysis of:	Second Edition		

SUMMARY: ***Senate Bill 89 would authorize the Department of Environment and Natural Resources (DENR) to add Grandfather Mountain to the State Parks System. The bill would become effective when it becomes law.***

[As introduced, this bill was identical to H128, as introduced by Reps. Frye, Starnes, Tarleton, which is currently in House Environment and Natural Resources, if favorable, Appropriations.]

CURRENT LAW: G.S. 113-44.14(b) provides that the Department of Environment and Natural Resources (DENR) may add a State park, State natural area, State recreation area, State trail, State river, or State lake to the State Parks System upon authorization by an act of the General Assembly.

BACKGROUND[1]:

- Grandfather Mountain is a well-known scenic icon in North Carolina's Blue Ridge Mountains. It contains the headwaters of both the Linville and the Watauga rivers, supports 16 distinct ecological communities, and is known to contain at least 73 rare species, 32 of which are federally or State listed as imperiled. The mountain's diversity of habitats and rare species, as well as its scenic beauty, make it an important addition to the State's conservation lands to be protected in perpetuity.
- The proposed Grandfather Mountain State Park would encompass the undeveloped portion of the privately owned Grandfather Mountain preserve.
- The property is under contract pending authorization by the General Assembly. The contract includes:
    1. The State will purchase in fee simple 2,456 acres of wilderness "backcountry" to become a State Park.
    2. The 749-acre developed portion of the property (visitor center, nature museum, picnic areas, swinging bridge, animal enclosures) and a buffer tract will be retained and operated by a private non-profit company created by Grandfather Mountain Inc.
    3. The State will also purchase a conservation easement on the developed portion, so that it can never be re-developed for another use.
    4. The State will receive a right of first refusal on the developed tract so that if it is ever for sale, the State can add it to the State Park.
    5. The State Park and the non-profit will cooperate as neighbors to manage the two adjacent properties efficiently and safely on behalf of the visiting public.
- No funding is requested as part of this authorization bill. Land acquisition funds have already been obtained from the Parks and Recreation Trust Fund and the Natural Heritage Trust Fund, both of which are supported by the State's tax on real estate deed transfers. The contract price is $12 million, although appraisals have determined the value to be $22,000,000. Each Trust Fund will contribute $6 million.

[1] Information provided by the Division of Parks and Recreation of DENR.

BILL ANALYSIS:

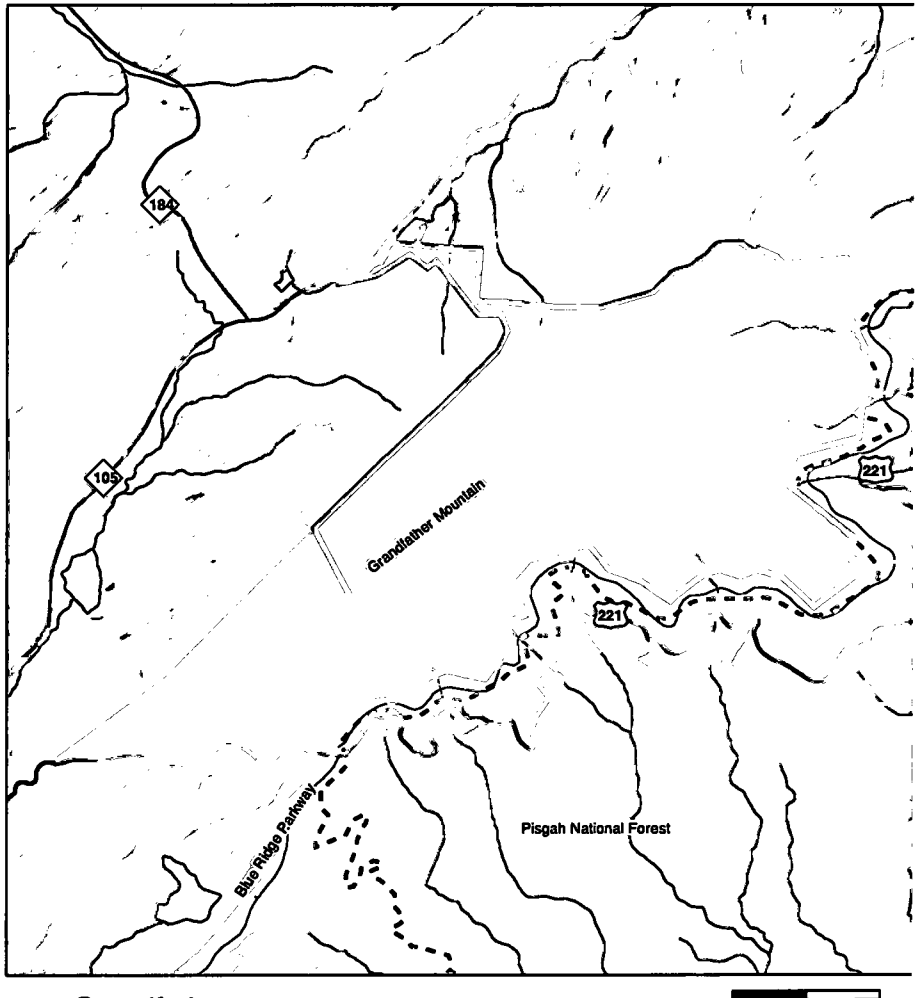
Section 1: Authorizes DENR to add Grandfather Mountain to the State Parks System.

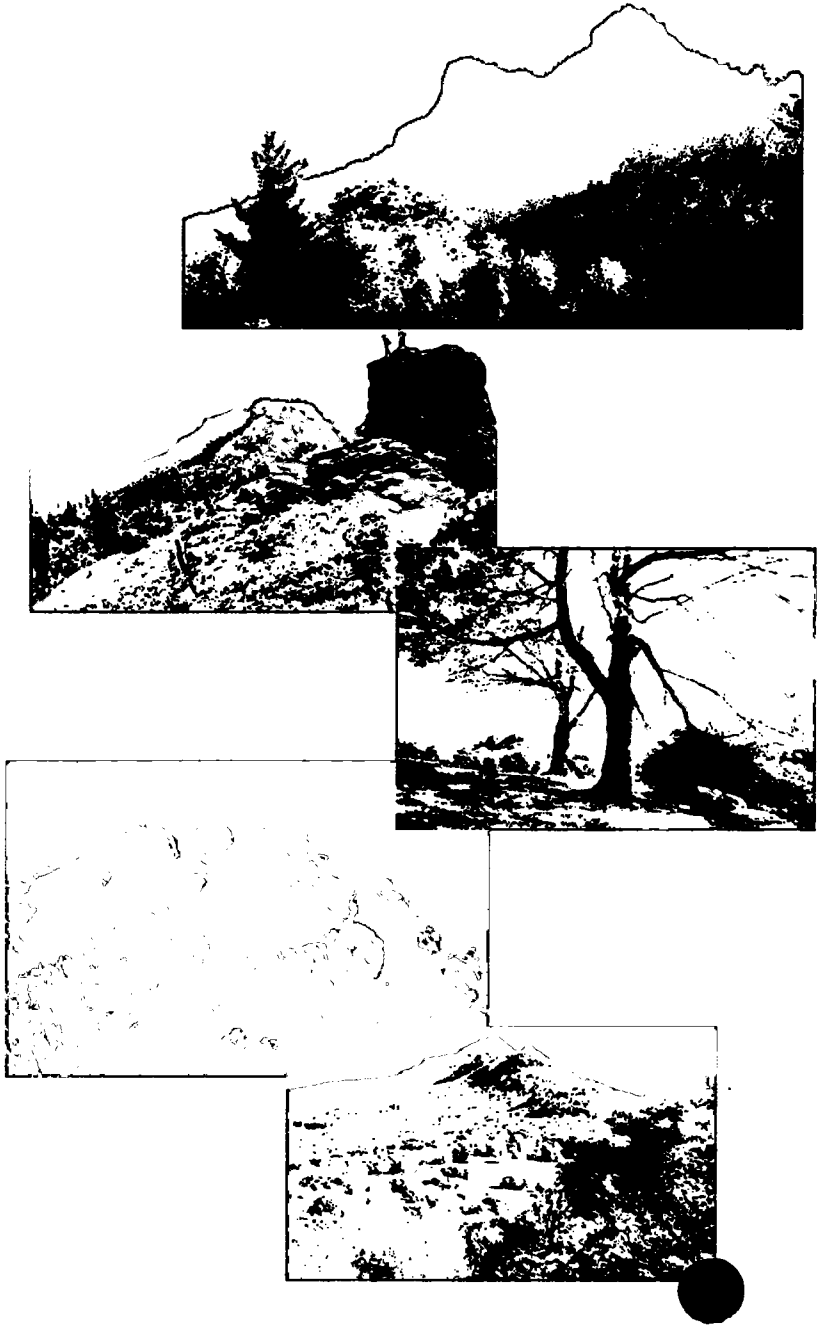
Section 2: Provides that the State must purchase Grandfather Mountain with existing funds in the Natural Heritage Trust Fund and the Parks and Recreation Trust Fund, as previously approved by the Council of State and the Joint Legislative Commission on Governmental Operations. The bill further provides that during the 2009-2011 biennium DENR must operate Grandfather Mountain State Park, with funds available.

EFFECTIVE DATE: The bill would become effective when it becomes law.

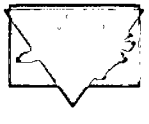
S89-SMRI-5(e2) v1

Grandfather Mountain Acquisition





Grandfather Mountain Acquisition



Legend

- Subject Property
- Mountains-to-Sea Trail
- US Forest Service
- Grandfather Mountain Inc.
- Blue Ridge Parkway
- The Nature Conservancy

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Feet

N

Draft Sept 2008

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒Senate Committee Substitute for

SB 89 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE ADDITION OF GRANDFATHER MOUNTAIN STATE PARK TO THE STATE PARKS SYSTEM.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on APPROPRIATIONS.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ The bill/resolution is re-referred to the Committee on _____.

Tom Cors
HENR Remarks
3/10/09

Madam Chair and members of the Committee.

My name is Tom Cors and I am a member of the steering committee of Land for Tomorrow. Thank you for the opportunity to address you this afternoon.

I am sure most of you are familiar with the work of Land for Tomorrow. We are a statewide partnership of community leaders, organizations and local governments working to increase land and water conservation in North Carolina.

We thank you for your past support and ask you for support during this year. We recognize that this is going to be a tough year. The legislature will be faced with tough decisions, arguably the toughest in generations.

As you heard last night, Gov. Perdue has been wrestling with these tough issues – prompting her decision two weeks ago to withhold $100 million from the Clean Water Management Trust Fund.

I assure you that the conservation community understands that times are tough and the difficulty we all found ourselves in. We have had conversations with the Governor's staff about that $100 million.

To give you an idea of the impacts of that decision, it is helpful to give a brief idea of how the conservation community works with the Fund. The way Clean Water works is that once a conservation group receives approval from the trust fund board, we move forward on an acquisition and are reimbursed by the trust fund for the deal. So, some of that $100 million, while still in the trust fund

accounts, is supposed to go to land conservancies for acquisitions that have already closed or are under option or contract.

$14.5 million of that money has been approved for projects that are already closed. Another $10.8 million is for projects that are either under contract or option.

We hope that $25.2 million will be returned to the trust fund to make good on its trustees' commitment to conservation. For now, we hold the discussion for another day regarding the remaining $36 million which funds projects that have no options effective February 25, 2009 – the date of Governor Perdue's decision. These were also some very worthy projects, but we recognize that tough times call for everyone to make sacrifices.

As for the future, we urge you to continue funding the Clean Water Management Trust Fund. Some folks will say that conservation funding is discretionary – something that can be put off until the economy gets better. But, we absolutely do not believe that to be the case. Conservation protects clean water, clean air, scenery, animals, plants and trees. Conservation is also a valuable economic driver and is important for public health.

As traditional industries like furniture manufacturers and textile operations have moved out of North Carolina, many communities have found that they were sitting on another gold mine – that their incredible natural heritage was a valuable building block in the local economy.

Take for example the town of Lake Lure. Since you authorized creation of Chimney Rock State Park, the state's conservation trust funds have bought thousands of acres in the Hickory Nut Gorge area, which includes Chimney Rock and Lake Lure. The mayor of Lake Lure, Jim Proctor, likes to make the point that buying and

protecting Lake Lure's viewshed is protecting the Lake Lure economy. That's certainly true across the state.

In addition to attracting tourism and drawing retirees, land conservation also plays a crucial role in another major aspect of North Carolina's economy – the military. Camp Lejeune lies in an area that is rapidly developing. That development threatened the military's abilities to conduct their training. Enter the Onslow Bight Conservation Forum, which was formed in 2002 by the US Marine Corps and The Nature Conservancy. The Forum's purpose is two fold – it addresses the issue of development encroaching on the base and it also works to conserve the natural heritage of the area. The state's conservation funds have provided more than $60 million toward conservation in the area, leveraging $15 million in federal funding.

Land conservation is also important to public health. Creating parks, trails and greenways is vital to providing residents with recreational opportunities, which is particularly important in a state with the 16th highest rate of obesity, fifth highest if you count just children.

Watershed protection, which is part of many conservation efforts, is important for both economic and public health reasons. The cost of treating drinking water is reduced when watersheds are protected. The EPA estimates it is anywhere from 20 to 400 times more expensive to treat contamination than to prevent it.

And, of course, conservation land for all to enjoy is an important tool for attracting new businesses to this state. Attracting businesses to North Carolina remains a critical component in our state's economic engine – which is even more important now than ever.

We have significant conservation needs. Last year, the Clean Water Management Trust Fund was only able to fund 60 percent of the requests it received. 2009 applications to the fund are at a record level. Land prices are at their lowest point in years. Now is the time to make conservation acquisitions, rather than paying top dollar in a few years. Our dollars are going to go further this year, provided that you allocate them.

Your strong leadership will guide us during these difficult economic times. I understand that you are faced with an extremely difficult budget situation and will need to make tough choices. I encourage you, however, to include substantial funding for the Clean Water Management Trust Fund and the Agricultural Development and Farmland Preservation Trust Fund. Also, please maintain the existing dedicated revenue sources for the Natural Heritage and Parks and Recreation Trust Funds.

Also, we have taken a heavy hit – I am referring to the $40 million of the 2008 COPS that was allocated to the Natural Heritage and Parks and Recreation Trust Funds. These funds have already been factored into debt limits. I urge your support to schedule consideration of the sales of the bonds at the next possible Council of State meeting.

All of us, from Land For Tomorrow, hope you will keep these facts in mind as you move through the legislative session. We want you to know that land and water conservation is part of the solution to our economic downturn – not a competing entity that can be left to be funded later. The dollars that are invested this year in conservation will sweeten the state's economy while improving and protecting the public health.

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — March 19, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
S O'Connor	Citizen
Carol Tingley	DENR - Parks
Reid Wilson	Conservation Trust for NC
Martin Bevacqua Connor	Capstrat
Tom Cors	The Nature Conservancy
Michelle Frazier	MFS
Scott Gardner	Duke Energy
Kim Hibbard	NCLM
John Shaw	Wake Up Wake Co
Cameron Hanby	Electricities of NC
Bailey [illegible]	Biofuels Ctr of NC

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — March 19, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Chris May	Cape Fear COG

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

March 19 , 2009
Date

SPEAKERS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

Name	Representing (Agency/Company)
Tom Cors	TNC

ENVIRONMENT & NATURAL RESOURCES COMMITTEE – 2009-2010 SESSION

Date of Committee Meeting: March 19, 2009

Page Name	County	Sponsor
Madison Ayers	Mecklenburg	Killian
Mariah Goerner	Columbus	Dewey Hill
Sarah Askin	Columbus	Dewey Hill

Sergeant-at-Arms
Carlton Adams
Earl Goker
J. Henry Worth
Frank Prevo
Fred Hines

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE MEETING

MARCH 24, 2009
12:00 NOON
Room 643 LOB

Representative Lucy T. Allen, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

HB 461 - Extend Animal Waste Operation Inspection Pgm.
Primary Sponsor: Rep. Hill

HB 616 - Offense for Portable Toilets/Pumper Trucks.
Primary Sponsor: Rep. Allen

ADJOURNMENT

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

March 24, 2009

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Tuesday, March 24, 2009, in room 643 of the Legislative Office Building. Representative Lucy T. Allen presided. Members present were: Representatives Gillespie, Justice, Tarleton, and Underhill, Vice-Chairs; Representatives Alexander, Blackwood, Floyd, Gibson, Haire, Killian, Luebke, Martin, McElraft, Tucker, West, and Womble.

Representative Allen called the meeting to order at 12:01 p.m. She began by introducing the pages: Levi Hollifield, Mitchell County (sponsored by Representative Frye) and Ethan Hollifield, Mitchell County (sponsored by Representative Frye). She next presented the Sergeant-at-arms staff: Carlton Adams, Charles Coker, Frank Prevo, Henry Worth, David Shearon, and Fred Hines. Introductions included staff: Jeff Hudson, Committee Counsel; Jennifer McGinnis, Committee Counsel; Jennifer Mundt, Committee Analyst; Mariah, Matheson, Committee Assistant; and Shara Graham, Committee Assistant and Legislative Assistant to Representative Allen.

The first item on the agenda was HB 616 – A BILL TO BE ENTITLED AN ACT TO CREATE THE OFFENSE OF LARCENY, DESTRUCTION, DEFACEMENT, OR VANDALISM OF PORTABLE TOILETS OR PUMPER TRUCKS. Representative West made a motion that a proposed committee substitute for HB 616 be placed before the committee for consideration. Upon the passage of this motion, Representative Allen invited Representative Underhill to preside so that she could present her bill to the committee. After an explanation of the need for such legislation, Representative Allen asked that two speakers be allowed to voice their support for the bill. Carey Mack with Redi-light and Barricades in Raleigh, an equipment rental company, spoke about incidents of vandalism and the costs involved with such. The second speaker was Joe McClees, representing the North Carolina Pumper Group, who talked about meeting with groups across the state who have been asking for this kind of legislation. Representative Tucker was then recognized with a motion for a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be referred to the Committee on Judiciary III. This passed unanimously.

Representative Underhill next recognized Representative Hill to present his HB 461 – AN ACT TO EXTEND THE SUNSET FOR THE PILOT PROGRAM REGARDING ANNUAL INSPECTIONS OF ANIMAL OPERATIONS THAT ARE SUBJECT TO A GENERAL PERMIT FOR AN ANIMAL WASTE MANAGEMENT SYSTEM. Following his presentation, Representative Underhill invited questions or comments from committee members. Once these were satisfactorily addressed, Representative

Blackwood made a motion for a favorable report and recommendation that the bill be re-referred to the Committee on Finance. This motion received unanimous approval.

With no further business to come before the committee, the meeting was adjourned at 12:15 p.m.

Respectfully submitted,

Representative Lucy T. Allen, Chair

Shara Graham, Committee Assistant

HOUSE BILL 616

Short Title:	Offense for Portable Toilets/Pumper Trucks.	(Public)
Sponsors:	Representative Allen.	
Referred to:	Environment and Natural Resources, if favorable, Judiciary III.	

March 17, 2009

A BILL TO BE ENTITLED

AN ACT TO CREATE THE OFFENSE OF LARCENY, DESTRUCTION, DEFACEMENT, OR VANDALISM OF PORTABLE TOILETS OR PUMPER TRUCKS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 16 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-82.6. Larceny, destruction, defacement, or vandalism of portable toilets or pumper trucks.**

If any person steals, takes from its temporary location or from any person having the lawful custody thereof, or destroys, defaces, or vandalizes a chemical or portable toilet as defined in G.S. 130A-290 or a pumper truck that is operated by a septage management firm that is permitted by the Department of Environment and Natural Resources under G.S. 130A-291.1, the person is guilty of a Class 1 misdemeanor."

SECTION 2. This act becomes effective December 1, 2009, and applies to offenses committed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 616
PROPOSED COMMITTEE SUBSTITUTE H616-CSTA-1 [v.1]

3/23/2009 11:51:47 AM

Short Title: Offense for Portable Toilets/Pumper Trucks. (Public)

Sponsors:

Referred to:

March 17, 2009

A BILL TO BE ENTITLED

AN ACT TO CREATE THE OFFENSE OF LARCENY, DESTRUCTION, DEFACEMENT, OR VANDALISM OF PORTABLE TOILETS OR PUMPER TRUCKS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 16 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-86.2. Larceny, destruction, defacement, or vandalism of portable toilets or pumper trucks.**

If any person steals, takes from its temporary location or from any person having the lawful custody thereof, or destroys, defaces, or vandalizes, a chemical or portable toilet as defined in G.S. 130A-290, or a pumper truck that is operated by a septage management firm that is permitted by the Department of Environment and Natural Resources under G.S. 130A-291.1, the person is guilty of a Class 1 misdemeanor."

SECTION 2. This act becomes effective December 1, 2009, and applies to offenses committed on or after that date.

HOUSE BILL 616:
Offense for Portable Toilets/Pumper Trucks

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Judiciary III	**Date:**	March 24, 2009
Introduced by:	Representative Allen	**Prepared by:**	Jennifer Mundt Legislative Analyst
Analysis of:	PCS to First Edition H616-CSTA-1		

SUMMARY: The Proposed Committee Substitute (PCS) for House Bill 616 would create the offense of larceny, destruction, defacement, or vandalism of portable toilets or pumper trucks.

BILL ANALYSIS: The PCS for House Bill 616 would make it a Class 1 misdemeanor[1] for any person who steals, takes from its temporary location or from any person who has lawful custody, destroys, defaces, or vandalizes a chemical or portable toilet, as defined in G.S. 130A-290 or a pumper truck that is operated by a septage management firm.

EFFECTIVE DATE: This act would become effective on December 1, 2009 and would apply to offenses committed on or after that date.

H616-SMTA-3(CSTA-1) v2

[1] The range of punishment for a Class 1 misdemeanor when there are no prior convictions is 1 to 45 days of community punishment.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

HB 616 A BILL TO BE ENTITLED AN ACT TO CREATE THE OFFENSE OF LARCENY, DESTRUCTION, DEFACEMENT, OR VANDALISM OF PORTABLE TOILETS OR PUMPER TRUCKS.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on JUDICIARY III.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

HOUSE BILL 461

Short Title:	Extend Animal Waste Operation Inspection Pgm.	(Public)
Sponsors:	Representatives Hill; and Lucas.	
Referred to:	Environment and Natural Resources, if favorable, Finance.	

March 9, 2009

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE SUNSET FOR THE PILOT PROGRAM REGARDING ANNUAL INSPECTIONS OF ANIMAL OPERATIONS THAT ARE SUBJECT TO A GENERAL PERMIT FOR AN ANIMAL WASTE MANAGEMENT SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. Section 15.4(a) of S.L. 1997-443, as amended by Section 3.1 of S.L. 1999-329, Section 5 of S.L. 2001-254, Section 1.1 of S.L. 2002-176, Section 6.1 of S.L. 2003-340, Section 12.7(a) of S.L. 2005-276, and Section 2 of S.L. 2007-536, reads as rewritten:

"(a) The Department of Environment and Natural Resources shall develop and implement a pilot program to begin no later than 1 November 1997, and to terminate 1 September ~~2009~~2011, regarding the annual inspections of animal operations that are subject to a permit under Article 21 of Chapter 143 of the General Statutes. The Department shall select two counties located in a part of the State that has a high concentration of swine farms to participate in this pilot program. In addition, Brunswick County and Pender County shall be added to the program. Notwithstanding G.S. 143-215.10F, the Division of Soil and Water Conservation of the Department of Environment and Natural Resources shall conduct inspections of all animal operations that are subject to a permit under Article 21 of Chapter 143 of the General Statutes in these four counties at least once a year to determine whether any animal waste management system is causing a violation of water quality standards and whether the system is in compliance with its animal waste management plan or any other condition of the permit. The personnel of the Division of Soil and Water Conservation who are to conduct these inspections in each of these four counties shall be located in an office in the county in which that person will be conducting inspections. As part of this pilot program, the Department of Environment and Natural Resources shall establish procedures whereby resources within the local Soil and Water Conservation Districts serving the four counties are used for the quick response to complaints and reported problems previously referred only to the Division of Water Quality of the Department of Environment and Natural Resources."

SECTION 2. This act becomes effective August 31, 2009.

HOUSE BILL 461:
Extend Animal Waste Operation Inspection Pgm

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Finance	**Date:**	March 24, 2009
Introduced by:	Representative Hill	**Prepared by:**	Jennifer Mundt
Analysis of:	First Edition		Legislative Analyst

SUMMARY: House Bill 461 would extend the Pilot Program for Inspection of Animal Waste Management Systems ("Pilot Program").

BILL ANALYSIS: House Bill 461 would extend the termination date of the Pilot Program for the inspection of animal waste management systems from September 1, 2009 to September 1, 2011. Under the pilot program, the Division of Soil and Water Conservation (DSWC) of the Department of Environment and Natural Resources performs the required annual inspections of animal operations served by permitted animal waste management systems.

BACKGROUND: The Pilot Program was initially created in 1997 in Columbus and Pender Counties and was expanded in 1999 and again in 2005 to include Brunswick and Pender Counties respectively. The objective of the Pilot Program is to determine how DSWC staff can respond more quickly and effectively, with technical assistance, to complaints and problems to help farmers achieve compliance with environmental regulations.

EFFECTIVE DATE: House Bill 461 would become effective August 31, 2009.

H461-SMTA-4(e1) v1

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

HB 461 A BILL TO BE ENTITLED AN ACT TO EXTEND THE SUNSET FOR THE PILOT PROGRAM REGARDING ANNUAL INSPECTIONS OF ANIMAL OPERATIONS THAT ARE SUBJECT TO A GENERAL PERMIT FOR AN ANIMAL WASTE MANAGEMENT SYSTEM.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on FINANCE.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ The bill/resolution is re-referred to the Committee on _____.

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

March 24 , 2009
Date

SPEAKERS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

Name	Representing (Agency/Company)
Corey Mack	A
Joe McClees	N.C. Portable Toilet Group N.C. Pumper Guy
Van Cox	DENR-DSWC

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — March 24, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Andrew Coyle	DLC House.
Nancy Thompson	Weyerhaeuser
Alicia Davis	MWC
PBP	NCFB
	NCSTA/NCAWCCCB
Doug Dassiter	NCSTA
Preston Howard	NCIC
L. Andrews	NCFB
David McGowan	NC Realtors
Cameron Hanley	Electricities of NC
Jeff Maynard	GDH Assoc.

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — March 24, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Grady McCallie	NC Conservation Network.
Pat Harris	NC DENR / DSWC
Vernon Cox	NCDENR/DSWC
Elizabeth Bise	DENR
Alexander White	AIC
Amy Simms	DENR
Robin Smith	DENR
Steve Wall	DENR
Joe McClees	McClees Consulting
Cary Mark	Readilite Barricade - NC portable Towers

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — March 24, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bruce Thompson	Nisqually Pod

House Pages

ENVIRONMENT & NATURAL RESOURCES

Name Of Committee: _____ Date: MAR. 24, 2009

1. Name: Levi Hollifield
   County: Mitchell
   Sponsor: Frye
2. Name: Ethan Hollifield
   County: Mitchell
   Sponsor: Frye
3. Name: _____
   County: _____
   Sponsor: _____
4. Name: _____
   County: _____
   Sponsor: _____
5. Name: _____
   County: _____
   Sponsor: _____

Sgt-At-Arms

1. Name: FRED HINES
2. Name: CARLTON ADAMS
3. Name: CHARLES COKER
4. Name: FRANK PREVO
5. Name: HENRY WOOTH
6. DAVID SHEARON
   SHEARON

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE MEETING

APRIL 7, 2009
12:00 NOON
Room 643 LOB

Representative Lucy T. Allen, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

HB 760 - Disposal of Pesticide Containers
Primary Sponsor: Rep. Gibson

HB 835 - Sanitary Districts Study Committee
Primary Sponsors: McLawhorn, E. Warren

ADJOURNMENT

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

April 7, 2009

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Tuesday, April 7, 2009, in room 1228 of the Legislative Building. Representative Lucy T. Allen presided. Members present were: Representatives Gillespie, Justice, Tarleton, and Underhill, Vice-Chairs; Representatives K. Alexander, Blackwood, Gibson, Haire, Martin, Samuelson, Stiller, Tucker, and West.

Representative Allen called the meeting to order at 12:00 noon. She began by introducing the pages: Miller Snyder, Mecklenburg County (sponsored by Representative Martha Alexander); Michael Vidal, Wake County (sponsored by Representative Martin); Carson Merenbloom, Wake County (sponsored by Representative Martin); and Nick Hunter, Johnston County (sponsored by Representative Owens). She next presented the Sergeant-at-arms staff: Charles Coker, Frank Prevo, Henry Worth, Trey Raley, David Shearon, and Fred Hines. Representative Allen then introduced staff members: Jeff Hudson, Committee Counsel; Jennifer McGinnis, Committee Counsel; Jennifer Mundt, Committee Analyst; Mariah, Matheson, Committee Assistant; and Shara Graham, Committee Assistant and Legislative Assistant to Representative Allen.

The first item on the agenda was HB 760 – A BILL TO BE ENTITLED AN ACT TO EXEMPT PESTICIDE CONTAINERS FROM THE PROHIBITION ON DISPOSAL OF RIGID PLASTIC CONTAINERS IN LANDFILLS. Representative Gibson was recognized to present his bill to the committee. After a brief explanation, the sponsor indicated that he knew of no opposition to it and asked the members to give it a favorable vote. Representative Allen opened the floor for questions and discussion from committee members. Questions were satisfactorily addressed by Representative Gibson and David McCloud with the North Carolina Department of Agriculture Consumer Services. Representative Underhill was recognized for a motion for a favorable report from the committee and a recommendation that the bill be referred to the Committee on Judiciary III. This motion passed unanimously.

Representative Allen recognized Megan West and Ben Eisner, second-year law students from Campbell University Law School. Both students were enrolled in classes taught by Representative Glazier and were visiting the legislature to observe.

The next bill on the agenda was HB 835 – A BILL TO BE ENTITLED AN ACT TO CREATE A STUDY COMMISSION TO REVIEW NORTH CAROLINA'S SANITARY DISTRICT LAWS AND PRACTICE. Representative Edith Warren was recognized to present the bill. A proposed committee substitute was distributed and, upon motion by Representative Haire, the committee voted to place the PCS before them for consideration. Following a brief explanation, Representative Warren asked the committee for a favorable vote. Representative Allen welcomed questions and comments

from committee members. Following brief comments indicating appreciation to the bill's sponsor for filing this legislation, Representative Tucker made a motion for a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on Appropriations. This motion received unanimous approval.

With no further business to come before the committee, the meeting was adjourned at 12:10 p.m.

Respectfully submitted,

Representative Lucy T. Allen, Chair

Shara Graham, Committee Assistant

HOUSE BILL 835

Short Title:	Sanitary Districts Study Committee.	(Public)
Sponsors:	Representatives McLawhorn, E. Warren (Primary Sponsors); Dockham and E. Floyd.	
Referred to:	Environment and Natural Resources, if favorable, Appropriations.	

March 30, 2009

A BILL TO BE ENTITLED

AN ACT TO CREATE A STUDY COMMISSION TO REVIEW NORTH CAROLINA'S SANITARY DISTRICT LAWS AND PRACTICE.

Whereas, the laws allowing the creation of a sanitary district are part of the Public Health laws in Chapter 130A of the General Statutes; and

Whereas, a Study Commission was created in 1983 to modernize the public health laws, however the Commission did not address the sanitary district laws; and

Whereas, local officials in Pitt County recently had the opportunity to apply the sanitary district laws in response to a petition filed by its citizens in accordance with the law; and

Whereas, officials in Pitt County, State representatives from the Department of Environment and Natural Resources, State representatives in the area of public health, and faculty from the Institute of Government agree that the sanitary district laws need to be updated and modernized; and

Whereas, the current sanitary district law should be studied to determine the most appropriate and efficient role of the Department of Environment and Natural Resources, Commission for Public Health Services, and local government officials; and to clarify the procedural requirements necessary to accomplish the creation of a sanitary district; and

Whereas, it is desirous to examine the sanitary district laws in Chapter 130A of the General Statutes and to recommend legislation to modernize the sanitary district laws; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Sanitary District Study Commission is created to consist of the 10 voting members appointed as follows:

(1) Five members appointed by the Speaker of the House of Representatives.
(2) Five members appointed by the President Pro Tempore of the Senate.
(3) The Committee shall consist of the following nonvoting ex officio members:
  a. A representative of the Division of Public Heath, Department of Health and Human Services.
  b. The Secretary of Environment and Natural Resources, or designee.
  c. A representative of the School of Government at the University of North Carolina at Chapel Hill.
  d. The Attorney General, or designee.

SECTION 1.(b) The Speaker of the House of Representatives shall appoint a cochair, and the President Pro Tempore of the Senate shall appoint a cochair for the Committee. The Committee may meet at any time upon the joint call of the cochairs. Vacancies

on the Committee shall be filled by the same appointing authority as made the initial appointment.

The Committee, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Committee may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

Subject to the approval of the Legislative Services Commission, the Committee may meet in the Legislative Building or the Legislative Office Building. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. The House of Representatives' and the Senate's Supervisors of Clerks shall assign clerical support staff to the Committee, and the expenses relating to the clerical employees shall be borne by the Committee. Members of the Committee shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 1.(c) The Committee shall study and review the current sanitary district laws in Chapter 130A of the General Statutes in order to identify and recommend legislation to modernize the sanitary district laws and clarify the substantive and procedural requirements contained in the law.

SECTION 1.(d) The Committee shall make an interim report to the General Assembly by the convening of the 2010 Regular Session of the 2009 General Assembly. The Committee shall make a final report to the 2011 General Assembly that includes findings, recommendations, and legislative proposals. The Committee shall terminate upon filing its final report.

SECTION 1.(e) Of the funds appropriated to the General Assembly for the 2009-2010 fiscal year and the for the 2010-2011 fiscal year, the Legislative Services Commission shall allocate funds for the expenses of the Committee established by this section.

SECTION 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 835
PROPOSED COMMITTEE SUBSTITUTE H835-CSTA-3 [v.4]

4/4/2009 2:49:29 PM

Short Title: Sanitary Districts Study Commission. (Public)

Sponsors:

Referred to:

March 30, 2009

A BILL TO BE ENTITLED

AN ACT TO CREATE A STUDY COMMISSION TO REVIEW NORTH CAROLINA'S SANITARY DISTRICT LAWS AND PRACTICE.

Whereas, the laws allowing the creation of a sanitary district are part of the Public Health laws in Chapter 130A of the General Statutes; and

Whereas, a Study Commission was created in 1983 to modernize the public health laws, however the Commission did not address the sanitary district laws; and

Whereas, local officials in Pitt County recently had the opportunity to apply the sanitary district laws in response to a petition filed by its citizens in accordance with the law; and

Whereas, officials in Pitt County, State representatives from the Department of Environment and Natural Resources, State representatives in the area of public health, and faculty from the School of Government at the University of North Carolina at Chapel Hill agree that the sanitary district laws need to be updated and modernized; and

Whereas, the current sanitary district laws should be studied to determine the most appropriate and efficient role of the Department of Environment and Natural Resources, Commission for Public Health, and local government officials; and to clarify the procedural requirements necessary to accomplish the creation of a sanitary district; and

Whereas, it is desirous to examine the sanitary district laws in Chapter 130A of the General Statutes and to recommend legislation to modernize the sanitary district laws; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Sanitary District Study Commission is created to consist of the 10 voting members appointed as follows:

(1) Five members appointed by the Speaker of the House of Representatives.

(2) Five members appointed by the President Pro Tempore of the Senate.

(3) The Commission shall consist of the following nonvoting ex officio members:

a. A representative of the Division of Public Heath in the Department of Health and Human Services.

b. The Secretary of Environment and Natural Resources or the Secretary's designee.

c. A representative of the School of Government at the University of North Carolina at Chapel Hill.

d. The Attorney General or the Attorney General's designee.

SECTION 1.(b) The Speaker of the House of Representatives shall appoint a cochair and the President Pro Tempore of the Senate shall appoint a cochair for the Commission. The Commission may meet at any time upon the joint call of the cochairs. Vacancies on the Commission shall be filled by the same appointing authority as made the initial appointment.

The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

Subject to the approval of the Legislative Services Commission, the Commission may meet in the Legislative Building or the Legislative Office Building. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Commission in its work. Clerical staff shall be assigned to the Commission through the offices of the Directors of the Legislative Assistants of the Senate and House of Representatives and the expenses relating to the clerical employees shall be borne by the Commission. Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 1.(c) The Commission shall study and review the current sanitary district laws in Chapter 130A of the General Statutes in order to identify and recommend legislation to modernize the sanitary district laws and clarify the substantive and procedural requirements contained in the law.

SECTION 1.(d) The Commission shall make an interim report to the General Assembly by the convening of the 2010 Regular Session of the 2009 General Assembly. The Commission shall make a final report to the 2011 General Assembly that includes findings, recommendations, and legislative proposals. The Commission shall terminate upon filing its final report.

SECTION 1.(e) Of the funds appropriated to the General Assembly for the 2009-2010 fiscal year and for the 2010-2011 fiscal year, the Legislative Services Commission shall allocate funds for the expenses of the Commission established by this section.

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 835:
Sanitary Districts Study Commission

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Appropriations	**Date:**	April 7, 2009
Introduced by:	Reps. McLawhorn, E. Warren	**Prepared by:**	Mariah Matheson Research Assistant
Analysis of:	PCS to the First Edition H835-CSTA-3 [v.4]		

SUMMARY: House Bill 835 would establish the Sanitary District Study Commission to review North Carolina sanitary district laws and practices.

CURRENT LAW: The laws governing sanitary districts are contained in Part 2 of Article 2 of Chapter 130A of the General Statutes. Under this Part, the Commission for Public Health is authorized to create sanitary districts without regard to county, township, or municipal lines for the purpose of preserving and promoting the public health and welfare.

BILL ANALYSIS: House Bill 835 would establish the Sanitary District Study Commission (Commission) to clarify the procedural requirements necessary for the creation of a sanitary district and to determine the most appropriate and efficient role of the Department of Environment and Natural Resources, the Commission for Public Health, and local government officials.

- The Commission would consist of the following members:
  - 10 voting members - five members appointed by the Speaker of the House of Representatives and five members appointed by the President Pro Tempore of the Senate.
  - Four nonvoting, ex-officio members:
    - A representative of the Division of Public Health, Department of Health and Human Resources
    - The Secretary of Environment and Natural Resources or the Secretary's designee
    - A representative of the School of Government at the University of North Carolina at Chapel Hill
    - The Attorney General, or the Attorney General's designee
- The Speaker of the House and the President Pro Tempore of the Senate would each appoint a cochair, and the Commission would meet upon call of the cochairs. The Commission would be authorized to contract for consultant services in performing the study.
- Professional staff would be assigned by the Legislative Services Officer to assist the Study Commission.
- In conducting the study, the Commission would be required to study and review the current sanitary district laws in Chapter 130A of the General Statutes in order to identify and recommend legislation to modernize the sanitary district laws and clarify the substantive and procedural requirements contained in the law.

- The Commission would make an interim report to the 2010 Regular Session of the 2009 General Assembly and would submit a final report to the 2011 General Assembly. The Commission would terminate upon its filing of its final report.

EFFECTIVE DATE: This act is effective when it becomes law.

[The Proposed Committee Substitute makes technical and clarifying changes for House Bill 835.]

H835-SMTF-1(e1) v9

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

HB 835 A BILL TO BE ENTITLED AN ACT TO CREATE A STUDY COMMISSION TO REVIEW NORTH CAROLINA'S SANITARY DISTRICT LAWS AND PRACTICE.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on APPROPRIATIONS.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

HOUSE BILL 760

Short Title:	Disposal of Pesticide Containers.	(Public)
Sponsors:	Representative Gibson.	
Referred to:	Environment and Natural Resources, if favorable, Judiciary III.	

March 25, 2009

A BILL TO BE ENTITLED

AN ACT TO EXEMPT PESTICIDE CONTAINERS FROM THE PROHIBITION ON DISPOSAL OF RIGID PLASTIC CONTAINERS IN LANDFILLS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-309.10(f) reads as rewritten:

"(f) No person shall knowingly dispose of the following solid wastes in landfills:

...

(11) Recyclable rigid plastic containers that are required to be labeled as provided in subsection (e) of this section, that have a neck smaller than the body of the container, and that accept a screw top, snap cap, or other closure. The prohibition on disposal of recyclable rigid plastic containers in landfills does not apply to rigid plastic containers that are intended for use in the sale or distribution of motor ~~oil.~~oil or pesticides. Pesticide containers shall be rinsed in accordance with label instructions prior to disposal in a landfill.

...."

SECTION 2. This act becomes effective October 1, 2009.

HOUSE BILL 760:
Disposal of Pesticide Containers

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Judiciary III	**Date:**	April 7, 2009
Introduced by:	Rep. Gibson	**Prepared by:**	Jennifer McGinnis Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***House Bill 760 would exempt plastic containers intended for use in the sale or distribution of pesticides from the ban on disposal of plastic containers in landfills. The ban is scheduled to become effective October 1, 2009.***

CURRENT LAW: G.S. 130A-309.10(f) prohibits the disposal in landfills of recyclable rigid plastic containers that have a neck smaller than the body of the container, and that accept a screw top, snap cap, or other closure. Plastic containers intended for use in the sale or distribution of motor oil are exempt from the ban. The ban is scheduled to become effective October 1, 2009.

The statute sets forth a list of other items banned from disposal in landfills. These items include:

- Used oil.
- Yard trash.
- White goods.
- Antifreeze.
- Aluminum cans.
- Whole scrap tires
- Lead-acid batteries.
- Beverage containers that are required to be recycled by ABC permittees.
- Motor vehicle oil filters (Effective October 1, 2009).
- Wooden pallets, except that wooden pallets may be disposed of in a landfill that is permitted to only accept construction and demolition debris (Effective October 1, 2009).
- Oyster shells.
- Discarded computer equipment (Effective January 1, 2011).
- Discarded televisions (Effective January 1, 2011).

A violation of the statute is punishable as a Class 1 misdemeanor[1]. The statute provides that accidental or occasional disposal of small amounts of prohibited solid waste in a landfill is not to be construed as a violation.

BILL ANALYSIS: The bill would exempt plastic containers intended for use in the sale or distribution of pesticides from the ban on disposal of plastic containers in landfills, which is scheduled to become effective October 1, 2009.

EFFECTIVE DATE: The bill would become effective October 1, 2009.

H760-SMRI-14(e1) v1

[1] The range of punishment for a Class 1 misdemeanor, assuming no prior convictions, is 1-45 days community punishment.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

HB 760 A BILL TO BE ENTITLED AN ACT TO EXEMPT PESTICIDE CONTAINERS FROM THE PROHIBITION ON DISPOSAL OF RIGID PLASTIC CONTAINERS IN LANDFILLS.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on JUDICIARY III.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ The bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — April 7, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Dan Crawford	CCNC
JOHN SHAW	WAKE UP WAKE
Andrew Cagle	DLC + BSA
DAVID BARNES	Poyner Spruill
Heather Barrett	Hunton & Williams
Robert Bruss	NCDA&CS
Henry Wade	NCDACS
David McLeod	NCDACS
Steve Wall	DENR
Scott Mouw	DENR

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — April 7, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ben Eisler	Law Student
Megan West	Law School
Bob Sloan	NCFA
Mitch Peele	NCFB
Kim Hibbard	NCLM
Nancy Thompson	Weyerhaeuser
Kathy Hawks	Progress Energy
Glenn Jernigan	Agricultural Alliance of N. & NC Crop Protection
DANIEL WILSON	NCRWA
Hayley Rogers	NCRWA
Chris Anderson	

House Pages

ENVIRONMENT & NATURAL RES.

Name Of Committee: _____ Date: APRIL 7, 2009

1. Name: Miller Snyder
   County: Mecklenburg
   Sponsor: Alexander, Martha
2. Name: Michael Vidal
   County: Wake
   Sponsor: GRIER, Martin
3. Name: Carson ~~Merenbloom~~ MERENBLOOM
   County: Wake
   Sponsor: Grier Martin
4. Name: Nick Hunter
   County: Johnston
   Sponsor: Owens
5. Name: _____
   County: _____
   Sponsor: _____

Sgt-At-Arms

1. Name: FRED HINES
2. Name: TREY RALEY
3. Name: CHARLES COKER
4. Name: FRANK PREVO
5. HENRY WORTH
6. DAVID SHEARON

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE MEETING

APRIL 14, 2009
12:00 NOON
Room 643 LOB

Representative Lucy T. Allen, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

HB 685 - Amend On-Site Wastewater Contractor Laws
Primary Sponsor: Rep. E. Warren

HB 759 - ABC Recycling Stay Extension
Primary Sponsor: Gibson

HB 1205 - Establish NC Commission on Climate Change
Primary Sponsors: Reps. Harrison, Underhill, and Glazier

ADJOURNMENT

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

April 14, 2009

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Tuesday, April 14, 2009, in room 643 of the Legislative Office Building. Representative Lucy T. Allen presided. Members present were: Representatives Gillespie, Justice, Tarleton, and Underhill, Vice-Chairs; Representatives K. Alexander, Blackwood, Floyd, Gibson, Haire, Killian, Luebke, McComas, Samuelson, Stiller, Tucker, and West.

Representative Allen called the meeting to order at 12:05 p.m. She began by introducing the pages: Joe Meyerson, Guilford County (sponsored by Representative Jeffus); Forrest Cherry, Pitt County (sponsored by Representative McLawhorn); and Drew Day, Person County (sponsored by Representative Wilkins). She next presented the Sergeant-at-arms staff: Fred Hines, Carlton Adams, Charles Coker, Frank Prevo, Henry Worth, and David Shearon. Representative Allen then introduced staff members: Jeff Hudson, Committee Counsel; Jennifer McGinnis, Committee Counsel; Jennifer Mundt, Committee Analyst; Mariah, Matheson, Committee Assistant; and Shara Graham, Committee Assistant and Legislative Assistant to Representative Allen.

Representative Allen began by noting that HB 1205 had been pulled from the agenda by the bill's sponsor at the last minute, so although it still appeared on the agenda, it would not be heard at this meeting.

The first item on the agenda was HB 685 – A BILL TO BE ENTITLED AN ACT AMENDING THE LAWS PERTAINING TO ON-SITE WASTEWATER CONTRACTORS AND INSPECTORS. Representative Edith Warren was recognized to present her bill to the committee. After a brief explanation of the bill, Representative Warren indicated that she or Doug Lassiter with the North Carolina Septic Tank Association would be glad to answer any questions from the committee. Representatives Haire, Blackwood, Luebke, and Underhill presented queries which were satisfactorily addressed by Representative Warren, Doug Lassiter, and Jeff Hudson. Representative Tarleton was recognized for a motion for a favorable report from the committee and a recommendation that the bill be referred to the Committee on Appropriations. This motion passed with one dissenting vote by Representative Blackwood.

The next bill on the agenda was HB 759 – A BILL TO BE ENTITLED AN ACT TO EXTEND THE ONE-YEAR STAY OF COMPLIANCE WITH THE MANDATORY RECYCLING LAW FOR ABC PERMITTEES TO ACCOMMODATE THOSE PERMITTEES WHO DO NOT HAVE ACCESS TO RECYCLING SERVICES. Representative Gibson was recognized to present the bill to the committee. At this point, Representative Allen asked Representative Tarleton to step forward and act as

Chair for the remainder of the meeting since she needed to leave to present a bill before another committee. At the close of Representative Gibson's presentation, Representative Tarleton welcomed questions and comments from the committee. In response to several questions from Representative Haire, Elizabeth Biser with the Department of Environment and Natural Resources and John Carr with the North Carolina Restaurant and Lodging Association were recognized to respond. Other questions from the committee were addressed by Representative Gibson and Mr. Carr. At that point, Representative Justice made a motion for a favorable report for the bill. This motion received unanimous approval from the committee.

With no further business to come before the committee, the meeting was adjourned at 12:32 p.m.

Respectfully submitted,

Representative Lucy T. Allen, Chair

Shara Graham, Committee Assistant

HOUSE BILL 685*

Short Title:	Amend On-Site Wastewater Contractor Laws.	(Public)
Sponsors:	Representative E. Warren.	
Referred to:	Environment and Natural Resources, if favorable, Appropriations.	

March 19, 2009

A BILL TO BE ENTITLED

AN ACT AMENDING THE LAWS PERTAINING TO ON-SITE WASTEWATER CONTRACTORS AND INSPECTORS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90A-71 reads as rewritten:

"**§ 90A-71. Definitions.**

The following definitions apply in this Article:

(1) "Board" means the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board.

(2) "Contractor" means a person who constructs, installs, or repairs, or offers to construct, install, or repair an on-site wastewater system in the State.

(3) "Conventional wastewater system" has the same meaning as in G.S. 130A-343(a)(3).

(4) "Department" means the Department of Environment and Natural Resources.

(5) "Inspector" means a person who conducts an inspection ~~of an on-site wastewater system at any time after the local health department has issued an operation permit pursuant to G.S. 130A-337.~~in accordance with rules adopted by the Board.

(5a) "Inspection" means an examination of an on-site wastewater system permitted under the provisions of Article 11 of Chapter 130A of the General Statutes, when requested by a lending institution, realtor, prospective homebuyer, or other impacted party as a condition of sale, refinancing, or transfer of title, which examination shall meet the minimum requirements established by the Board.

(6) "On-site wastewater system" means any wastewater system permitted under the provisions of Article 11 of Chapter 130A of the General Statutes that does not discharge to a treatment facility or the surface waters of the State.

(7) "Person" means all persons, including individuals, firms, partnerships, associations, public or private institutions, municipalities, or political subdivisions, governmental agencies, or private or public corporations organized and existing under the laws of this State or any other state or country.

(8) "Wastewater treatment facility" means a mechanical or chemical treatment facility serving a site with multiple wastewater sources."

SECTION 2. G.S. 90A-72 reads as rewritten:

"**§ 90A-72. Certification required; applicability.**

(a) Certification Required. – No person shall construct, install, or repair or offer to construct, install, or repair an on-site wastewater system ~~in the State~~as permitted under Article 11 of Chapter 130A of the General Statutes without being certified as a contractor at the required level of certification for the specified system. No person shall conduct an inspection or offer to conduct an inspection of an on-site wastewater system as permitted under Article 11 of Chapter 130A of the General Statutes without being certified ~~as an inspector at the required level of certification for the specified system.~~in accordance with the provisions of this Article.

(b) Applicability. – This Article does not apply to the following:

(1) A person who is employed ~~by, or performs labor and services for,~~by a certified contractor or inspector in connection with the construction, installation, repair, or inspection of an on-site wastewater system performed under the direct and personal supervision of the certified contractor or ~~inspector.~~inspector in charge.

(2) A person who constructs, installs, or repairs an on-site wastewater system described as a single septic tank with a gravity-fed ~~distribution system~~gravel trench dispersal media when located on land owned by that person and that is intended solely for use by that person and members of that person's immediate ~~family.~~family when residing in the same dwelling.

(3) A person licensed under Article 1 of Chapter 87 of the General Statutes who constructs or installs an on-site wastewater system ancillary to the building being ~~constructed.~~constructed or who provides corrective services and labor for the on-site wastewater system ancillary to the constructed building.

(4) A person who is certified by the Water Pollution Control System Operators Certification Commission and contracted to provide necessary operation and maintenance on the permitted on-site wastewater system.

(5) A person permitted under Article 21 of Chapter 143 of the General Statutes who is constructing a water pollution control facility necessary to comply with the terms and conditions of a National Pollutant Discharge Elimination System (NPDES) permit.

(6) A person licensed under Article 1 of Chapter 87 of the General Statutes as a licensed public utilities contractor who is installing or expanding a wastewater treatment facility, including a collection system, designed by a registered professional engineer.

(7) A plumbing contractor licensed under Article 2 of Chapter 87 of the General Statutes, so long as the plumber is not performing plumbing work that includes the installation or repair of a septic tank or similar depository, or lines or appurtenances downstream from the point where the house or building sewer lines from the plumbing system meet the septic tank or similar depository."

SECTION 3. G.S. 90A-73(a) reads as rewritten:

"(a) Creation and Appointments. – There is created the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board. The Board shall consist of nine members appointed to three-year terms as follows:

(1) One member appointed by the Governor who, at the time of appointment, is engaged in the construction, installation, repair, or inspection of on-site wastewater systems, to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by three.

(2) One member appointed by the Governor who, at the time of appointment, is ~~a certified water treatment facility operator pursuant to Article 2 of Chapter 90A of the General Statutes,~~engaged in the construction, installation, repair,

or inspection of on-site wastewater systems, to a term that expires on 1 July of years evenly divisible by three.

(3) One member appointed by the Governor who is an employee of the Division of Environmental Health of the Department to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by three.

(4) One member appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who, at the time of appointment, is engaged in the construction, installation, repair, or inspection of on-site wastewater systems, to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by three.

(5) One member appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who, at the time of appointment, is engaged in the business of inspecting on-site wastewater systems, to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by three.

(6) One member appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate upon the recommendation of the North Carolina Home Builders Association, to a term that expires on 1 July of years evenly divisible by three.

(7) One member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who, at the time of appointment, is engaged in the construction, installation, repair, or inspection of on-site wastewater systems, to a term that expires on 1 July of years evenly divisible by three.

(8) One member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who, at the time of appointment, is (i) employed as an environmental health specialist, and (ii) engaged primarily in the inspection and permitting of on-site wastewater systems, to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by three.

(9) One member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who, at the time of appointment, is ~~(i) employed by the North Carolina Cooperative Extension Service, and (ii) is knowledgeable in the area of on-site wastewater systems,~~a certified water treatment facility operator pursuant to Article 2 of Chapter 90A of the General Statutes, to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by three."

SECTION 4. G.S. 90A-74(4) reads as rewritten:

"The Board shall have the following general powers and duties:

...

(4) To develop and administer examinations for ~~each grade level of certification.~~specific grade levels as approved by the Board. The Board may approve applications by recognized associations for certification of its members after a review of the requirements of the association to ensure that they are equivalent to the requirements of the Board.

...."

SECTION 5. G.S. 90A-76 reads as rewritten:

"**§ 90A-76. On-Site Wastewater Certification Fund.**

The On-Site Wastewater Certification Fund is created as a nonreverting account ~~within the Department.~~established and controlled by the Board. All fees collected pursuant to this Article

shall be credited to the Fund. The Fund shall be used solely for the costs of administering this Article."

SECTION 6. G.S. 90A-77(a) reads as rewritten:

"(a) Certification. – The Board shall issue a certificate of the appropriate grade level to an applicant who satisfies all of the following conditions:

(1) Is at least 18 years of age.

(2) Submits a properly completed application to the Board.

(3) ~~If the applicant has prior experience providing on-site wastewater system services, submits affidavits of three persons not related to the applicant for whom the applicant provided on-site wastewater services.~~Completes the basic on-site wastewater education program approved by the Board for the specified grade levels as determined by the Board.

~~(4) If the applicant has no prior experience, completes the basic on-site wastewater education program approved by the Board.~~

(5) Completes any additional training program designed by the Board specific to the grade level for which the applicant is applying.

(6) Pays the applicable fees set by the Board for the particular application and grade level.

(7) For grade levels ~~greater than conventional systems,~~as determined by the Board, passes a written or oral examination that tests the applicant's proficiency in all of the following areas:

a. Principles of public and environmental health associated with on-site wastewater systems.

b. Principles of construction and safety.

c. Technical and practical knowledge of on-site wastewater systems typical to the specified grade level.

d. Laws and rules related to the installation, construction, repair, or inspection of the specified on-site wastewater system."

SECTION 7. Fees held by the Department of Environment and Natural Resources pursuant to the On-Site Wastewater Certification Fund under G.S. 90A-76 shall be transferred to the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board in accordance with G.S. 90A-76, as enacted in Section 5 of this act, on the effective date of this act.

SECTION 8. This act is effective when it becomes law.

HOUSE BILL 685:
Amend On-Site Wastewater Contractor Laws

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Appropriations	**Date:**	April 14, 2009
Introduced by:	Representative E. Warren	**Prepared by:**	Jennifer Mundt
Analysis of:	First Edition		Legislative Analyst

SUMMARY: House Bill 685 would amend the laws that pertain to on-site wastewater contractors and inspectors.

[As introduced, this bill was identical to S706, as introduced by Sen. Swindell, which is currently in Senate Agriculture/Environment/Natural Resources.]

CURRENT LAW: Article 5 of Chapter 90A of the General Statutes (On-Site Wastewater Contractors, Inspectors) requires the construction, installation, repair, and inspection of on-site wastewater systems in the State to be conducted by a certified on-site wastewater contractor or inspector. To be certified, an individual must be at least 18 years old, submit a completed application and fee, and meet certain training and experience requirements. The act exempts certain individuals from the certification requirements including: an employee or contractor working under the direct and personal supervision of certified contractor or inspector; a landowner who constructs, installs, or repairs a single septic system so long as it is intended for use by that person and members of that person's immediate family; a licensed general contractor who constructs or installs an on-site wastewater system ancillary to the building being constructed; and certain other individuals who hold specific licenses or permits.

This Article also established the On-Site Wastewater Contractors and Inspectors Certification Board (Board). The Board consists of nine members, three appointed by the Governor, three by the General Assembly upon recommendation of the President Pro Tempore of the Senate, and three by the General Assembly upon recommendation of the Speaker of the House of Representatives. The Board has administrative and disciplinary powers and may determine eligibility requirements, establish grades of certification, develop and administer exams, and establish fees.

BILL ANALYSIS: House Bill 685 makes the following changes to the on-site wastewater contractors and inspectors laws:

Section 1: Adds a definition for the term "inspection" that means an examination of an on-site wastewater system permitted under the provisions of Article 11 of Chapter 130A of the General Statutes (Wastewater Systems), when requested by a lending institution, realtor, prospective homebuyer, or other impacted party as a condition of sale, refinancing, or transfer of title, which examination shall meet the minimum requirements established by the Board.

Adds a definition for the term "wastewater treatment facility" that means a mechanical or chemical treatment facility serving a site with multiple wastewater sources.

Clarifies that the term "inspector" means a person who conducts an inspection in accordance with rules adopted by the Board.

Section 2: Makes the following changes to the applicability of the certification requirements for on-site wastewater contractors and inspectors under Article 5 of Chapter 90A of the General Statutes:

- Clarifies that no person can construct, install, or repair an on-site wastewater system permitted under Article 11 of Chapter 130A of the General Statutes without being certified.
- Clarifies that the certification requirements do not apply to:
  - A person who is employed by and under the direct and personal supervision of a certified contractor or inspector *in charge*.
  - A person who constructs, installs, or repairs an on-site wastewater system comprised of a single septic tank with a gravity-fed *gravel trench dispersal media* on that person's land for use by that person and members of that person's immediate family *who reside in the same dwelling.*
  - General contractors licensed under Article 1 of Chapter 87 of the General Statutes who construct or install an on-site wastewater system ancillary to the building being constructed or *who provide corrective services and labor for the on-site wastewater system ancillary to the constructed building.*

Section 3: Makes the following changes in qualification for member appointments to the Board:

- One member appointed by the Governor who is a certified water treatment facility operator under Article 2 of Chapter 90A of the General Statutes must instead be engaged in the construction, installation, repair, or inspection of on-site wastewater systems.
- One member appointed upon recommendation of the Speaker of the House of Representatives who is employed by the North Carolina Cooperative Extension Service and is knowledgeable in the area of wastewater treatment systems instead must instead be a certified water treatment facility operator under Article 2 of Chapter 90A of the General Statutes.

Section 4: Clarifies that the Board is authorized to develop and administer examinations for specific grade levels of certifications.

Sections 5 and 7: Shifts the control of the On-Site Wastewater Certification Fund from the Department of Environment and Natural Resources to the Board and provides that fees held by the Department shall be transferred to the Board.

Section 6: Amends the applicant certification requirements to require an applicant to complete the basic on-site wastewater education program approved by the Board for the specified grade levels as approved by the Board. This removes the option for an applicant who has experience in provided on-site wastewater system services to become certified by submitting affidavits of three people who are not related to the applicant for whom the applicant provided on-site wastewater services.

EFFECTIVE DATE: House Bill 685 would become effective when it becomes law.

H685-SMTA-11(e1) v2

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

HB 685 A BILL TO BE ENTITLED AN ACT AMENDING THE LAWS PERTAINING TO ON-SITE WASTEWATER CONTRACTORS AND INSPECTORS.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on APPROPRIATIONS.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ The bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 1

HOUSE BILL 759

Short Title:	ABC Recycling Stay Extension.	(Public)
Sponsors:	Representative Gibson.	
Referred to:	Alcoholic Beverage Control, if favorable, Environment and Natural Resources.	

March 25, 2009

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE ONE-YEAR STAY OF COMPLIANCE WITH THE MANDATORY RECYCLING LAW FOR ABC PERMITTEES TO ACCOMMODATE THOSE PERMITTEES WHO DO NOT HAVE ACCESS TO RECYCLING SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-902(h) reads as rewritten:

"(h) Recycling Plan Required. – Each applicant for an on-premises malt beverage permit, on-premises unfortified wine permit, on-premises fortified wine permit, or a mixed beverages permit shall prepare and submit with the application a plan for the collection and recycling of all recyclable beverage containers of all beverages to be sold at retail on the premises. A permittee who is not able to find a recycler for its beverage containers may apply to the Alcoholic Beverage Control Commission for a one-year stay of the requirement to implement a recycling program in compliance with G.S. 18B-1006.1. The application shall be made in a form specified by the Commission, shall detail the efforts made by the permittee to provide for the collection and recycling of beverage containers, and shall specify the impediments to implementation of a recycling plan. The Commission shall submit all such applications to the Division of Pollution Prevention and Environmental Assistance of the Department of Environment and Natural Resources for review and certification. The Division of Pollution Prevention and Environmental Assistance shall investigate each application and prepare a summary of its investigation and shall submit the summary to the Commission along with a notation indicating certification or denial of the application. A permittee whose application for a stay is certified by the Division of Pollution Prevention and Environmental Assistance shall not be required to comply with the recycling requirement of the alcoholic beverage laws and regulations during the one-year stay period so certified."

SECTION 2. G.S. 18B-903(b2) reads as rewritten:

"(b2) Recycling Plan Required. – Each person holding an on-premises malt beverage permit, on-premises unfortified wine permit, on-premises fortified wine permit, or a mixed beverages permit shall submit, along with the annual registration or renewal application, either a current plan for the collection and recycling of all recyclable beverage containers of all beverages sold at retail on the ~~premises.~~ premises, or an application for a waiver pursuant to G.S. 18B-902(h)."

SECTION 3. This act is effective when it becomes law and applies retroactively to applications for permits and for renewal of permits submitted to the ABC Commission on or after January 1, 2009.

HOUSE BILL 759:
ABC Recycling Stay Extension

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	April 14, 2009
Introduced by:	Rep. Gibson	**Prepared by:**	Jennifer McGinnis
Analysis of:	First Edition		Committee Counsel

SUMMARY: House Bill 759 allows an applicant for the issuance or renewal of an ABC permit to apply for a one-year stay of the requirement to implement a recycling program, if the applicant does not have access to recycling services.

CURRENT LAW: Under G.S. 18B-1006.1, holders of on-premises ABC permits are required to separate, store, and provide for the collection for recycling of all recyclable beverage containers of beverages sold at retail on the premises. Each applicant for the initial issuance or renewal of on-premises ABC permits must submit with the application a plan for the collection and recycling of all recyclable beverage containers. The mandatory recycling requirement became effective January 1, 2008.

BILL ANALYSIS: House Bill 759 would allow an applicant for the issuance or renewal of an on-premises ABC permit to apply to the Alcoholic Beverage Control Commission for a one-year stay of the mandatory recycling requirement, if the applicant is not able to find a recycler for its beverage containers. The applicant must detail efforts made to comply with the recycling requirement, and specify any impediments to the implementation of a recycling plan. The Division of Pollution Prevention and Environmental Assistance of the Department of Environment and Natural Resources will investigate each application and submit a summary of its findings to the ABC Commission along with a notation indicating whether the application is certified or denied. If the application is certified, the applicant will not be required to comply with the recycling requirement during the one-year period for which certification is granted.

EFFECTIVE DATE: The bill would be effective when it becomes law and apply to applications for permits and for renewal of permits submitted on or after January 1, 2009.

Brenda J. Carter, Committee Counsel to the House Alcoholic Beverage Control Committee, substantially contributed to this summary.

H759-SMRI-15(e1) v1

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

HB 759 A BILL TO BE ENTITLED AN ACT TO EXTEND THE ONE-YEAR STAY OF COMPLIANCE WITH THE MANDATORY RECYCLING LAW FOR ABC PERMITTEES TO ACCOMMODATE THOSE PERMITTEES WHO DO NOT HAVE ACCESS TO RECYCLING SERVICES.

☒ With a favorable report.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — **Name of Committee**

April 14, 2009 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Amy Pickle	Nicholas Institute
Sarah Clapp	NCWRC
Grady McCallie	NC Conservation Network
Dan Crawford	Conservation Council of NC
R. Rogers	CWMTF
John Monaghan	Piedmont Natural Gas
Deatrice Williams	CLCA
Jim Lowry	NCLCA
Leslie Arnold	SOG-Daily Bulletin
Robin Smith	DENR
Elizabeth Biser	DENR

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — April 14, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Kim Hibbard	NCLM
J.W. Stewart	NC Chamber
Amy Fullbright	H&W
Linda Andrews	NCFB
Thomas Mocarsky	Edwists & Wells
Matt Harrell	TPG
Cindia Hollis	K&L Gates
Michael Hutson	MWC
Amy Schilder	MWC
Amy McConkey	SA
John Barkley	DOJ Pur OSW<IB

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — April 14, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Becki Gray	John Locke Foundation
Lisa Martin	NC Home Builders
R. Paul Wilms	WGR

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — April 14, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jon Carr	NC Restaurant & Lodging Assoc
Josh Maynard	AFM & Assoc
Jessi Hayes	NC HBA
John Pollard	NCAPPA
Andrew Cagle	DLC @ Assoc.
Zeb Alley	

ENVIRONMENT & NATURAL RESOURCES COMMITTEE – 2009-2010 SESSION

Date of Committee Meeting: April 14, 2009

Page Name	County	Sponsor
Joe Meyerson	Guilford	Jeffus
Forrest Cherry	Pitt	McLawhorn
Drew Day	Person	Wilkins

Sergeant-at-Arms
FRED HINES DAVID SHEARON
CARLTON ADAMS
CHARLES COKER
FRANK PREVO
HENRY WORTH

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE MEETING

APRIL 21, 2009
12:00 NOON
Room 643 LOB

Representative Lucy T. Allen, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES

AGENDA ITEMS:

HB 340 - Appalachian Mountains Preservation Act.
Primary Sponsors: Reps. Harrison, Haire, Fisher, and Howard

ADJOURNMENT

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

April 21, 2009

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Tuesday, April 21, 2009, in room 643 of the Legislative Office Building. Representative Lucy T. Allen presided. Members present were: Representatives Gillespie, Harrison, Justice, Tarleton, and Underhill, Vice-Chairs; Representatives K. Alexander, Blackwood, Floyd, Gibson, Haire, Insko, Killian, Luebke, Martin, McComas, McElraft, Owens, Samuelson, Stiller, Tucker, West, and Womble.

Representative Allen called the meeting to order at 12:00 noon, and indicated that the only item on the agenda would be HB 340 – A BILL TO BE ENTITLED AN ACT TO PRESERVE THE APPALACHIAN MOUNTAINS BY PROHIBITING ELECTRIC PUBLIC UTILITIES THAT OPERATE COAL-FIRED GENERATING UNITS LOCATED IN NORTH CAROLINA FROM PURCHASING OR USING COAL THAT IS EXTRACTED USING MOUNTAINTOP REMOVAL COAL MINING. Representative Allen recognized Representative Harrison to present her bill. She began by acknowledging the bill's other primary sponsors, Representatives Fisher and Haire, before beginning her explanation of the legislation. At the completion of Representative Harrison's remarks, Representative Allen welcomed speakers. She indicated that because of the tight schedule, the committee would hear from two speakers supporting the bill then two speakers opposing the bill. She asked each presenter to limit his/her time to 15 minutes.

The first speaker was Anne Leake, Vice-president of the Board of a Tennessee organization called Save Our Cumberland Mountains. She talked about the adverse effects mountaintop removal had in her state. She cited a number of unpleasant personal experiences and asked the committee to support the bill and not allow the same things to happen in North Carolina.

The second speaker was Dr. Matt Wasson, Director of Programs for the Boone-based organization called Appalachian Voices, working on air pollution issues and on stopping mountaintop removal. He distributed a packet (attached) then reiterated what Ms. Leake had said and indicated that affected residents in North Carolina were also opposed to mountaintop removal and the effects it can have on their communities. He used a Power Point presentation entitled "Mountaintop Mining, A True Portrait" (copy attached).

Representative Allen next called on Sasha Weintraub, Vice-president of Fuels and Power Optimization with Progress Energy to speak in opposition to HB 340. He talked of the cost this legislation would bring to power customers and the negative impact it would have on businesses considering locating in North Carolina. He talked of shutting down

coal-powered plants in the state and the impact this would have on the economy. He asked the committee to reject the bill.

The last speaker was Vince Stroud, Vice-president of Regulated Fuels with Duke Energy. He stated that Duke Energy saw the bill as harmful to the economic development of the state and costly to their customers. He said that half of the coal used came from mountaintop mines. Should half the resources cease, he said it would create a definite hardship for Duke Energy and that would ultimately affect customers, both residential and commercial. He urged the committee members to vote against the passage of HB 340.

At this time Representative Allen apologized to those who had signed up to speak but could not be recognized because of time constraints. She then asked Jennifer McGinnis on staff to add explanatory remarks to those already presented by Representative Harrison.

At this point, Representative Allen took the opportunity to introduce the pages: Aaron Henoyhand and Chris Hoerning, both of Sampson County, representing Tarheel Challenge Academy.

Representative Allen opened the floor for questions, comments, and concerns from committee members. Assisting Representative Harrison in answering questions were Sasha Weintraub, Dr. Matt Wasson, and Chris Hamilton with the West Virginia Coal Association, as well as staff member Jennifer McGinnis. Recognizing the many unanswered questions and deep concerns presented by committee members, especially comments indicating a possible need for federal legislation rather than state mandates, the bill's sponsor, Representative Harrison, asked that no vote be taken on the bill at this time. She offered to help formulate a resolution or letter requesting federal legislation to address the issue.

(Attached are copies of material distributed to the committee members by various parties who were not able to speak due to time constraints.)

With no further business to come before the committee, the meeting was adjourned at 12:55 p.m.

Respectfully submitted,

Representative Lucy T. Allen, Chair

Shara Graham, Committee Assistant

HOUSE BILL 340

Short Title:	Appalachian Mountains Preservation Act.	(Public)
Sponsors:	Representatives Harrison, Haire, Fisher, Howard (Primary Sponsors); M. Alexander, Bordsen, Brisson, Bryant, Cotham, Current, Glazier, Goforth, Gulley, Hall, Harrell, Holliman, Hughes, Insko, Jeffus, Jones, Luebke, Martin, Mobley, Parmon, Rapp, Underhill, R. Warren, Weiss, Whilden, Womble, and Wray.	
Referred to:	Environment and Natural Resources, if favorable, Public Utilities, if favorable, Commerce, Small Business, and Entrepreneurship.	

March 2, 2009

A BILL TO BE ENTITLED

AN ACT TO PRESERVE THE APPALACHIAN MOUNTAINS BY PROHIBITING ELECTRIC PUBLIC UTILITIES THAT OPERATE COAL-FIRED GENERATING UNITS LOCATED IN NORTH CAROLINA FROM PURCHASING OR USING COAL THAT IS EXTRACTED USING MOUNTAINTOP REMOVAL COAL MINING.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 62 of the General Statutes is amended by adding a new Article to read:

"Article 5B.

"Appalachian Mountains Preservation Act.

"**§ 62-109. Short title.**

This Article shall be known as the Appalachian Mountains Preservation Act.

"**§ 62-109.1. Findings and purpose.**

(a) The General Assembly finds:

(1) North Carolina is home to the Appalachian Mountains, and the State's citizens and wildlife share in common this critical economic, environmental, and cultural resource with every state containing or bordering these ancient mountains.

(2) From Maine to Alabama, these ancient mountains have shaped the economy, environment, and unique cultural heritage of the areas located along the Appalachian Mountains.

(3) Coal mining has played a central role in shaping the economy, environment, and unique cultural heritage of the Appalachian coalfields.

(4) Coal mining, whether conducted on the earth's surface or underground, poses significant risks to human health, local communities, the environment, real property, personal property, and wildlife resources.

(5) By transforming the majestic mountains of the Appalachian coalfields into flattened, eerily lifeless moonscapes, mountaintop removal coal mining, of all the methods of extracting coal, poses the greatest risks to human health, local communities, the environment, real property, personal property, and wildlife resources.

(6) As of 2009, mountaintop removal coal mining has permanently erased more than 470 peaks from the Appalachian skyline, buried or polluted more than 1,200 miles of pristine headwater streams, and swept away more than 800 square miles of one of America's most diverse and valuable ecosystems.

(7) Left unchecked, mountaintop removal coal mining will continue to irreversibly destroy the people, communities, cultural heritage, and environment of the Appalachian coalfields, as well as our wildlife resources.

(8) The impacts of mountaintop removal coal mining are unacceptable to the citizens of this State.

(9) By consuming coal extracted by mountaintop removal coal mining to provide power to our homes, businesses, and economy, North Carolina is responsible, in part, for the permanent destruction to date of the Appalachian coalfields and the wildlife resources of the Appalachian Mountains.

(10) Sixty-one percent (61%) of the electricity used to provide power to North Carolina's homes, businesses, and economy is generated by coal-fired generating units located in North Carolina.

(11) Fifty percent (50%) of the coal used to produce electricity in North Carolina is extracted by mountaintop removal coal mining in the Appalachian coalfields.

(12) Because North Carolina burns a significant amount of coal extracted by mountaintop removal coal mining, we have an obligation to eliminate or reduce the devastating social and environmental impacts of this mining in the Appalachian Mountains.

(13) Fulfilling this obligation also will enhance the general welfare of North Carolina's citizens, our wildlife resources, and our interest in preserving the Appalachian Mountains for current and future generations.

(b) It is the purpose of this Article to promote the general welfare of North Carolina's citizens, environment, and wildlife by prohibiting electric public utilities that operate coal-fired generating units located in North Carolina from purchasing or using coal that is extracted by mountaintop removal coal mining.

"**§ 62-109.2. Contracts to purchase or use coal extracted by mountaintop removal coal mining prohibited.**

(a) No electric public utility that operates a coal-fired generating unit located in North Carolina shall enter into any contract to purchase or use coal extracted by mountaintop removal coal mining.

(b) The Commission may adopt rules to implement this Article.

(c) As used in this Article, the following definitions apply:

(1) Coal-fired generating unit. – Defined in G.S. 62-133.6.

(2) Mountaintop removal coal mining. – Any method of surface coal mining that removes a mountaintop or ridgeline, whether or not the mined area will be returned to its approximate original contour. "Mountaintop removal coal mining" includes all of the following methods of surface coal mining: cross-ridge mining, box-cut method mining, steep slope mining, area mining, mountaintop mining, and any method of coal mining that utilizes valley fills.

"**§ 62-109.3. Sworn statements of coal extraction methods used; report requirements.**

(a) Each electric public utility that operates a coal-fired generating unit located in North Carolina shall ensure that the coal it agrees to purchase or use was not, nor will be, extracted using mountaintop removal coal mining, by securing from its coal providers the sworn statement of an authorized officer of the provider that contains all of the following information:

(1) The name and location of each mine from which the coal to be purchased was, or will be, extracted.

(2) The mining methods utilized at each mine listed under subdivision (1) of this subsection.

(3) A statement that the coal purchased was not, nor will be, extracted by mountaintop removal coal mining.

(b) On the fifteenth day of each month, each electric public utility that operates a coal-fired generating unit located in North Carolina shall file a report with the Commission that itemizes the monthly and accumulated costs incurred by purchasing or using coal extracted by a method other than mountaintop removal coal mining, using the most recent data available.

(c) As part of its annual reporting on cost of fuels and fuel-related costs, each electric public utility that operates a coal-fired generating unit located in North Carolina shall submit to the Commission copies of all of the following:

(1) Each sworn statement required under subsection (a) of this section.

(2) Each contract to purchase coal entered into during the reporting period.

(d) Each electric public utility that operates a coal-fired generating unit located in North Carolina may file with the Commission an application to determine the rate that would include all reasonable and prudent incremental fuel costs incurred by purchasing or using coal extracted by a method other than mountaintop removal coal mining.

(e) The Commission shall, within 20 calendar days after receiving a written request, provide a list of each public utility that operates a coal-fired generating unit located in North Carolina, indicating whether each utility is in compliance with this section based upon the most recent information available.

(f) If an electric public utility considers certain information required to be included in a report under this section confidential and entitled to protection from public disclosure, the utility may designate that information as confidential and file it with the Commission under seal. Documents marked as confidential will be treated as required under applicable Commission rules, procedures, and orders dealing with filings made under seal and with nondisclosure agreements.

"**§ 62-109.4. Penalties.**

(a) Any electric public utility that is in violation of G.S. 62-109.2 shall be prohibited from recovering the cost of fuel under G.S. 62-133.10 and all other fuel-related costs for the coal obtained in violation of G.S. 62-109.2.

(b) If an electric public utility that operates a coal-fired generating unit located in North Carolina fails to file the monthly or annual reports required under G.S. 62-109.3, the Commission shall issue an order canceling or suspending the utility's certificate of convenience and necessity 30 days after the date of service of the order. In the event the report is filed during this 30-day period, the order of cancellation or suspension shall be void."

SECTION 2. Article 7 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"**§ 62-133.10. Cost recovery for incremental cost of certain coal mining methods.**

The Commission shall, upon petition of an electric public utility, approve an annual rider to the electric public utility's rates to recover all reasonable and prudent incremental costs incurred by each investor-owned public utility that operates a coal-fired generating unit located in North Carolina for purchasing or using coal extracted by a method other than the mountaintop removal coal mining prohibited by rules adopted in accordance with G.S. 62-109.2."

SECTION 3. This act becomes effective January 1, 2010, and applies to contracts to purchase coal entered into on or after that date.

HOUSE BILL 340:
Appalachian Mountains Preservation Act

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Public Utilities, if favorable, Commerce, Small Business, and Entrepreneurship	**Date:**	April 21, 2009
Introduced by:	Reps. Harrison, Haire, Fisher, Howard	**Prepared by:**	Jennifer McGinnis Committee Counsel
Analysis of:	First Edition		

SUMMARY: House Bill 340 would prohibit electric public utilities that operate coal-fired generating units located in the State from purchasing or using coal extracted by mountaintop removal mining (MTR). MTR is defined in the bill as any method of surface coal mining that removes a mountain top or ridgeline, whether or not the mined area will be returned to its approximate original contour.

[As introduced, this bill was identical to S341, as introduced by Sen. Goss, which is currently in Senate Commerce.]

BACKGROUND: MTR is a form of surface mining that involves removal of mountaintops to expose coal seams. The overburden or waste (the material that lies above the coal seam) is often scraped into ne adjacent drainage valleys in what is called a valley fill. [1]

Mountaintop coal mining operations are concentrated in eastern Kentucky, southern West Virginia, western Virginia, and scattered areas of eastern Tennessee. MTR is not practiced in North Carolina, but coal mined by MTR is imported from other states for use in North Carolina.

Bills similar to HB 340 have been introduced in several other states. Bills have also recently been introduced in Congress that would amend a definition of "fill material" in the federal Clean Water Act (CWA) to prevent disposal of what is known as "excess spoil" from mountaintop mining into streams and riverrs.[2]

CURRENT LAW: Mining operations are regulated under the CWA. Section 404 of the CWA regulates the discharge of dredged or fill material into waters of the United States. Section 402 regulates all other point source discharges of pollutants into waters of the United States. Technology based effluent limits for the National Pollutant Discharge Elimination System (NPDES) program are established by USEPA to restrict the concentration of particular pollutants associated with a particular industry. Section 401 of the CWA provides states with the authority to review and either deny or grant certification for any activities requiring a federal permit or license, to ensure that they will not violate applicable state water quality standards. Coal mining operations are also regulated under the Surface Mining Control and Reclamation Act (SMCRA). The SMCRA was enacted by Congress in 1977 to ovide a comprehensive program to regulate surface coal mining and reclamation operations, including ITR. CWA and SMCRA regulatory agencies must either consult or coordinate with the Fish and

[1] http://www.epa.gov/region3/mtntop/index.htm

[2] http://alexander.senate.gov/public/index.cfm?FuseAction=PressReleases.Detail&PressRelease_Id=75f9277f-8f54-4a98-ac89-26ad54f2054d

Wildlife Services, as appropriate to ensure the protection of endangered and threatened species and their critical habitats as determined under the Endangered Species Act.

BILL ANALYSIS: The bill would prohibit public utilities that operate coal-fired generating units located in the State (governed utilities) from purchasing or using coal extracted by MTR. The bill would also require governed utilities to:

- Secure sworn statements from coal providers concerning the coal extraction methods used.
- File monthly reports with the Utilities Commission (Commission) itemizing the monthly and accumulated costs incurred by purchase and use of coal extracted by non-MTR methods.
- Provide copies of all sworn statements and all contracts to purchase coal annually to the Commission.

The bill would allow governed utilities to file an application with the Commission to determine the rate that would include all reasonable and prudent incremental fuels costs incurred by purchase and use of coal extracted by non-MTR methods. Upon application of a governed utility, the Commission would be directed to approve an annual rider to a governed utility's rates to recover all reasonable and prudent incremental fuels costs incurred by purchase and use of coal extracted by non-MTR methods.

A governed utility violating the prohibition on purchase or use of MTR-extracted coal would be prohibited from recovering the cost of fuel associated with all reasonable and prudent incremental costs incurred by purchase and use of coal extracted by non-MTR methods, and recovery of all other fuel-related costs obtained in violation of the statute. Failure of a governed utility to report as required under the bill would result in issuance by the Commission of an order cancelling or suspending the utility's certificate of convenience, which order would be voided if the report was filed within 30 days.

EFFECTIVE DATE: The bill would become effective January 1, 2010, and apply to contracts to purchase coal entered into on or after that date.

H340-SMRI-19(e1) v2

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Point of View:
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Our chance to spare mountains

BY JEFF BIGGERS
Comment on this story

The wonderful ending of the NCAA men's basketball season notwithstanding, the nation will still be watching North Carolina next week.

Thousands of Carolinians and tourists will head up the hills to enjoy the glorious blooms of the trailing arbutus and birdfoot violets in the Blue Ridge mountains this spring. They'll tarry in the historic towns that dot the hills; they'll marvel at the sweeping beauty. It's said that one acre in the western Carolina mountains -- the Appalachian mountains -- can possess more plant diversity than all of the forests in Europe.

The beauty of those Appalachian mountains doesn't stop at the state line, of course. But a different reality is taking place in parts of eastern Tennessee, southwestern Virginia, West Virginia and Kentucky.

Every day in the lush green coalfields of the central Appalachian mountains, over 3 million pounds of explosives are detonated in the strip mining process of coal called mountaintop removal. This mining technique literally clear cuts the range, blows off the tops of mountains with massive ammonium nitrate and fuel-oil blasts, and topples the rocks and waste into valleys and streams.

In the past three decades, an estimated 500 mountains have been destroyed by this mining technique; more than 1,200 miles of streams have been jammed with mining waste and fill, and scores of historic communities have been depopulated, left in ruin and saddled with unsparing poverty. Relying on heavy machinery and explosives, mountaintop removal operations have also stripped the region of needed jobs and any possibility of a diversified economy.

This other Appalachia is not so far from North Carolina.

With nearly 60 percent of its electricity generated by coal-fired plants, North Carolina consumes over 15 million tons of coal stripped from mountaintop removal operations in central Appalachia. It ranks as the second-largest consumer of mountaintop removal-mined coal in the nation.

In truth, we all live in the coalfields now.

In 2007, state Rep. Pricey Harrison of Greensboro took a historic step in introducing the Appalachian Mountains Preservation Act, which would prohibit the importation of mountaintop-removal coal into North Carolina. This was the first bill of its kind in the nation. It is aimed at ending the most egregious human rights and environmental violation in the Appalachian region and country.

Reintroduced this year, the bill serves as a wise reminder of the increasing precariousness of North Carolina's dependence on mountaintop-removal coal in a changing market and new presidential administration. As the recent Environmental Protection Agency rulings for greater scrutiny and restrictions of mountaintop removal operations demonstrate, a consensus is emerging to phase out mountaintop-removal coal.

By shifting to underground Appalachian coal, cheaper coal from Wyoming or renewable energy

sources like biomass, the price of change for consumers in North Carolina will be a pittance compared with the risk of waiting for a sudden price spike and supply shortage. When factoring in the costs of transporting the coal to a power plant, converting it to electricity and transmitting that electricity to homes and businesses, a shift to underground coal would cost no more than an additional $0.09 per kilowatt hour for North Carolina electricity rates.

Since the Revolution, North Carolina has often led in making the historic decisions to advance our nation into a new era. As the Environment and Natural Resources Committee considers the Appalachian Mountains Preservation Act next week, North Carolina will once again have the opportunity to make history and distance itself from this unsound source of coal. It can call for an end to the destruction of the other Appalachia by halting the importation of mountaintop-removal coal.

As a bellwether for the other coal-consuming states, North Carolina will once again determine whether our nation is ready to move forward to a new energy future.

And the nation will be watching.

Jeff Biggers is author of "The United States of Appalachia" and the forthcoming memoir "Reckoning at Eagle Creek: The Secret Legacy of Coal in the Heartland."

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opinion

Editorials

An unhealthy alliance

JOURNAL EDITORIAL STAFF

Mountaintop mining, which blasts the tops off mountains, doesn't happen in North Carolina. But coal produced by that mining produces electricity for many of us. North Carolina should break from that practice, and a bill filed last week in the state House sets the stage for a compromise that could make that happen.

"By transforming the majestic mountains of the Appalachian coalfields into flattened, eerily lifeless moonscapes, mountaintop removal coal mining, of all the methods of extracting coal, poses the greatest risks to human health, local communities, the environment, real property, personal property and wildlife resources," according to the bill from Rep. Pricey Harrison, a Guilford County Democrat.

"By consuming coal extracted by mountaintop removal mining to provide power to our homes, businesses and economy, North Carolina is responsible, in part, for the permanent destruction to date of the Appalachian coalfields and the wildlife resources of the Appalachian mountains," according to the bill.

The bill, if it becomes law, would ban electric public utilities that operate in North Carolina from purchasing or using coal from mountaintop mining. It would be enforced by prohibiting errant companies from recovering the cost of their coal through customer rates, as they're allowed to do by law.

Mountaintop mining is an extreme form of strip mining, which the *Journal* has long opposed. In the 1970s, investigative reporting and editorials in the *Journal* and in its sister paper, the now-defunct *Sentinel*, were instrumental in thwarting a company's efforts to bring strip mining to Northwest North Carolina. Strip mining and mountaintop mining destroy the beauty of mountains and their value to the natural tourism industry, and they reduce property values. The mining also ravages ecosystems, including watersheds.

Duke Energy says it must balance environmental concerns with its responsibility to customers to purchase the "most economical coal." The company says that prohibiting it from using the high-quality coal extracted through mountaintop mining would cut its coal market in half, resulting in higher prices for customers, because it would face the challenge of finding and using other sources of coal. Progress Energy has similar concerns.

The transition to other coal would take a lot of time and money, said Vince Stroud, a vice president for Duke Energy. The shift would require significant changes in plant boilers.

The company's conservative estimate is that the ban would result in a 5-percent annual hike in residential electric rates, and an 8-percent annual hike in industrial rates, said Marilyn Lineberger, a spokeswoman for Duke Energy. And other companies would continue to purchase coal mined from mountaintops, she said.

But the nonprofit agency Appalachian Voices, based in Boone, says that banning North Carolina plants

from using coal from mountaintop mining will not have a significant impact on rates, because several other sources of coal are available. The bill allows for a phasing out of using coal from mountaintop mining. The executive director of Appalachian Voices, Matt Wasson, said that such mining will eventually be outlawed, and the utility companies should be facing that reality now, so scrambling for new coal sources won't lead to rate hikes. And while coal is a reasonable energy form for now, eventually utility companies must use cleaner sources of energy.

That said, there's certainly no guarantee that the ban wouldn't cause a rate hike, and that's the last thing needed in a recession.

With that in mind, Harrison and other lawmakers should work out a compromise with the utility companies. The bill should be amended to say that any ban should only apply to a utility company's work in North Carolina; the ban couldn't stop a company that operates in this state from using, in another state, coal mined from mountaintops. That's up to lawmakers in those other states.

And to avoid sharp rate increases, the ban should be imposed gradually. What's needed is a spirit of compromise, like that among Gov. Mike Easley's office, lawmakers, environmentalists, Duke Energy and Progress Energy that produced the Clean Smokestacks Act in 2002. That law has reduced air pollution from coal-fired plants.

Then, just as now, there was a clear hazard. Lawmakers heard of premature deaths, increases of childhood asthma and other breathing problems caused by soot from power plants. The act allowed the companies to phase in clean-up procedures over several years, and to freeze electric rates to pay for the machinery to reduce pollution. The companies did not have to decrease their rates during that time, resulting in windfalls for them.

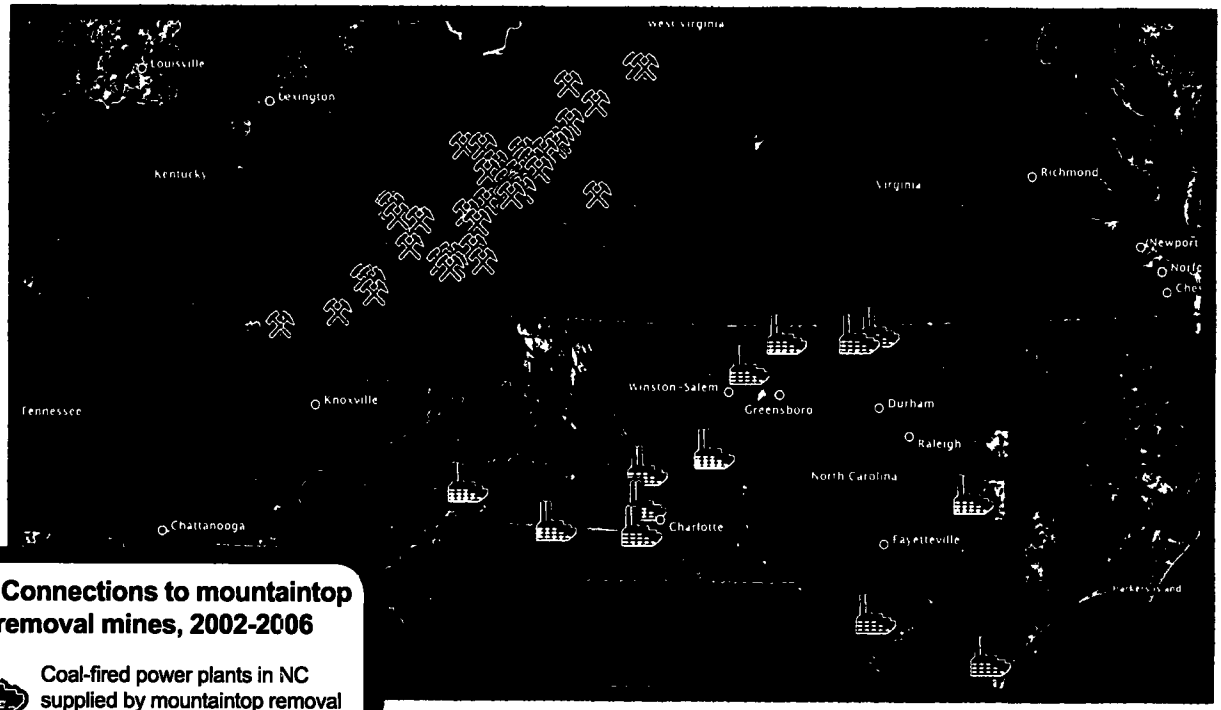
Stroud said the mountaintop issue is different. The Clean Smokestacks Act imposes restrictions on the company's plants, he noted, while a ban on using coal from mountaintop mining would restrict what the company could do in the marketplace.

This compromise would take more effort. But it's well worth the trouble. It's time for North Carolina to break its addiction to mountaintop mining. Other states should do the same.

The Appalachian Mountains Preservation Act

Every day in the mountains of Virginia, Kentucky, West Virginia and Tennessee, more than 6 million pounds of explosives are detonated. Every week, giant strip mines across Appalachia use the explosive force of a Hiroshima-sized atomic bomb to blow up the nation's oldest mountains, removing as much as 800 feet of elevation to unearth seams of coal.

How is North Carolina Connected to Mountaintop Removal?



NC Connections to mountaintop removal mines, 2002-2006

Coal-fired power plants in NC supplied by mountaintop removal

Mountaintop removal mines supplying NC power plants

* database compiled by Appalachian Voices, Nov, 2007. See: ilovemountains.org/myconnection/#methods

"North Carolina is the nation's second largest consumer of mountaintop removal coal"

A database of coal shipments to utilities between 2002 and 2006 compiled by Appalachian Voices showed that North Carolina alone consumes between 6 and 12 million tons from mountaintop removal mines every year. Our two largest utilities, Duke Energy and Progress, are both among the top 5 corporate consumers of mountaintop removal, consuming as much as 11.4 million tons and 7.7 million tons respectively each year .

The Appalachian Mountains Preservation Act

Rep Pricey Harrison (NC-57) re-introduced in 2009 "The Appalachian Mountains Preservation Act" - a bill that would ban the use of coal from mountaintop removal mines by power plants and other coal-burning facilities in the state of North Carolina.

PLEASE CO-SPONSOR THE APPALACHIAN MOUNTAINS PRESERVATION ACT

To co-sponsor, contact Rep. Pricey Harrison at:

Office: 2119 Legislative Building
Phone: 919-733-5771
E-mail: priceyh@ncleg.net

Produced by Appalachian Voices, December, 2008
www.appalachianvoices.org • (828) 262-1500

PLEASE CO-SPONSOR THE APPALACHIAN MOUNTAINS PRESERVATION ACT

Background: Mountaintop removal is an egregious form of strip mining that uses explosives to remove hundreds of feet of elevation from a mountaintop in order to uncover thin seams of coal. The overburden, or waste, created by the blasting is then deposited into adjacent valleys burying forests, communities, and hundreds of miles of perennial and ephemeral streams. According to EPA estimates, nearly 1 million acres of mountains in Central Appalachia have been leveled, and approximately 1200 miles of streams have been buried to date.

Why should North Carolina be concerned?
Relying so heavily upon mountaintop removal coal is risky for North Carolina's ratepayers. Not only is coal from this region is some of the *most expensive coal in the world,* there are many reasons why this practice may be ended in the near future. These factors could ultimately cut off the supply of mountaintop removal coal at any time. Phasing out contracts for this coal would be an inexpensive way to protect North Carolina's ratepayers from sudden price spikes and supply shortages. These factors include:

- The Clean Water Protection Act had 153 bi-partisan co-sponsors at the close of the 110th Congress.
- Many class action lawsuits have been successful in lower courts and are being reviewed by higher courts.
- Because of the questionable future of mountaintop removal, companies are already switching to underground mining techniques. Massey Energy, the nation's 4th largest coal producer, is opening a new deep mine every 17 days in Central Appalachia.
- Bank of America, one the nation's largest financial institutions, has recently announced that it will phase out its financing of companies that use mountaintop removal as the primary means of mining coal.

The Appalachian Mountain Preservation Act: On May 27, 2008, Rep. Harrison (NC 57) introduced The Appalachian Mountain Preservation Act, the first state bill in the country that would phase out the use of coal from mountaintop removal mines by power plants and other coal-burning facilities in the country. It's imperative for states that consume mountaintop removal coal to address this issue. Please consider co-sponsoring The Appalachian Mountains Preservation Act.

To co-sponsor, contact Rep. Pricey Harrison (NC-57) at:
Office: 2119 Legislative Building
Phone: 919-733-5771
E-mail: priceyh@ncleg.net

Appalachian Voices 191 Howard St. Boone, NC 28607 (828) 262-1500 E-mail outreach@appvoices.org
www.ilovemountains.org

MOUNTAINTOP MINING

A True Portrait

WV COAL
WEST VIRGINIA COAL ASSOCIATION

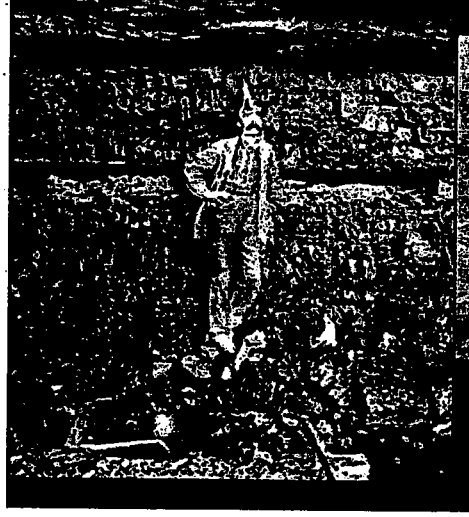
Friends of Coal

Kentucky Coal

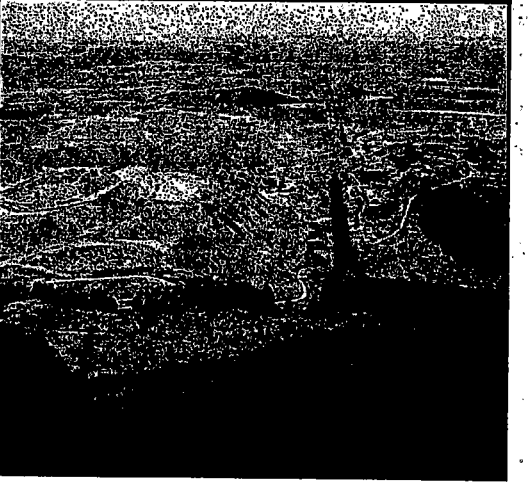
West Virginia Coal Association
Kentucky Coal Association
March 11, 2009

Public Image of Coal

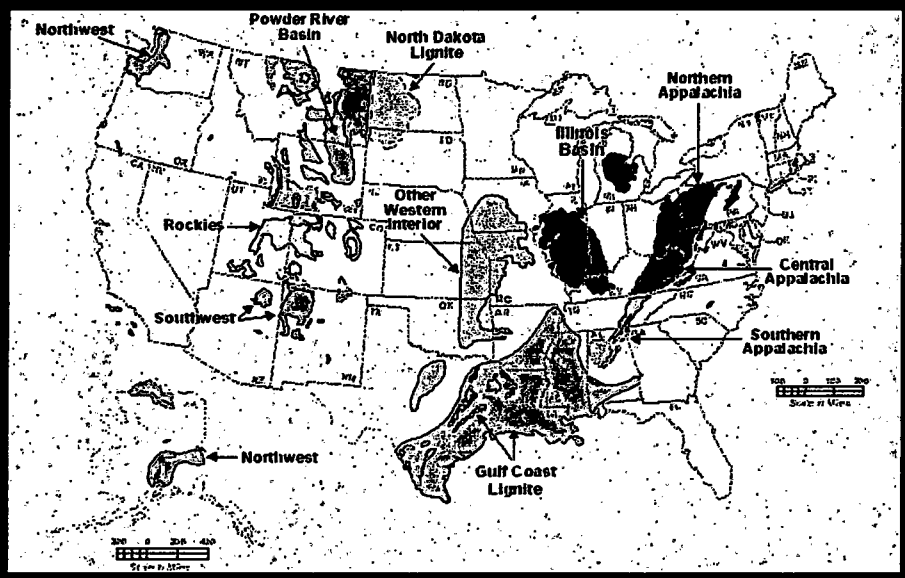
Pick and Shovel



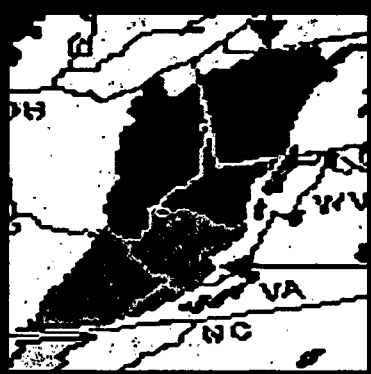
Destruction of the Land



Coal Production in United States



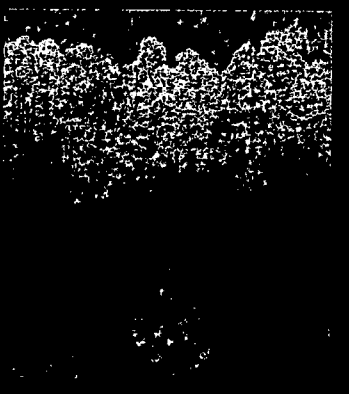
The Basics



- Two distinct coal regions:
  - Northern West Virginia (Northern Appalachia)
  - Southern West Virginia (Southern Appalachia)

THE BASICS
West Virginia

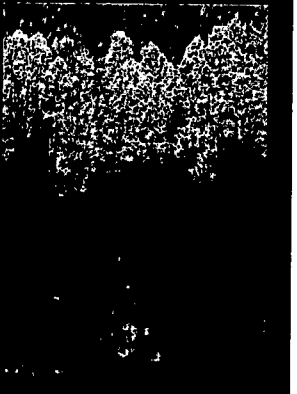
- West Virginia is:
  - The second largest coal producing state in the nation (161 million tons)
  - The largest underground coal producing state (93 million tons)
  - The largest international coal exporting state (@ 20 million tons)



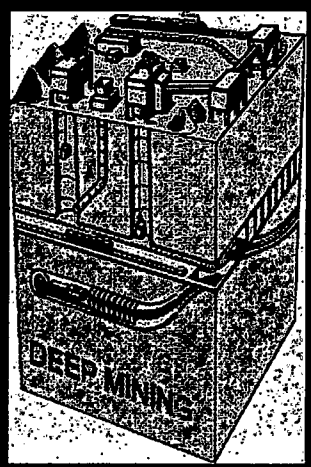
THE BASICS
Kentucky

PRODUCTION

- 120 million tons in 2007 total
  - 75 percent mined in Eastern Kentucky
    - 51 percent underground
    - 49 percent surface
  - 25 percent mined in Western Kentucky
    - 87% underground
    - 13% surface)
- Production peaked in 1990 at 179.4m
- Kentucky ranks third nationally behind Wyoming and West Virginia.

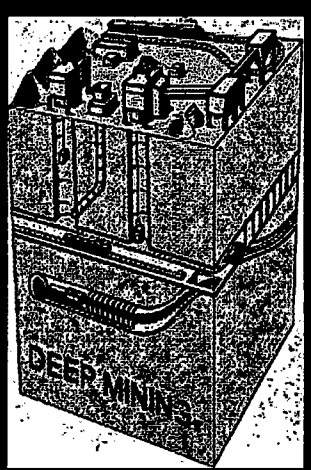


The Economics
West Virginia



- Number of active mines:
  - Underground -- 308
  - Surface – 244
- Total employment:
  - Total of all types – 34,527
    - Underground – 13,053
    - Surface – 6,154
    - Prep Plants – 2,342
    - Contractors – 12,978

The Economics
Kentucky



- Number of active mines:
  - 279 underground mines
  - 273 surface mines
- Total employment:
  - Total of all types – 17,893
    - Underground – n/a
    - Surface – n/a
    - Prep Plants – n/a
    - Contractors – n/a

THE ECONOMICS
West Virginia

Wages and Benefits:

- Average annual salary – $62,700
- Benefits include health, disability, life and retirement, etc.

Production and Taxation:

- Estimated production value -- $6.8 B
- Coal severance tax -- $418 M
- Approximately $1 B in total taxes

THE ECONOMICS
Kentucky

Wages and Benefits:

- Average annual salary – $58,750
- Benefits include health, disability, life and retirement, etc.

Production and Taxation:

- $270 million in severance taxes
- Normal business taxes
- Around 85 cents on each dollar stays here.

Leading Coal Producers

- Top Five Producers in West Virginia (2007)
  - Consolidation Coal Company – 18 million tons
    - Subsidiary of Consol
  - McElroy Coal Company – 9.7 million tons
    - Subsidiary of Consol
  - Independence Coal Company – 7.2 million tons
    - Subsidiary of Massey Energy
  - Eastern Association Coal Corp. – 6.0 million tons
    - Subsidiary of Patriot Mining
  - Elk Run Coal Company, Inc. – 6.6 million tons
    - Subsidiary of Massey Energy

Types of Mining

- Underground mining
  - Room-and-pillar
  - Long wall
- Surface mining
  - Auger mining
  - Contour mining
  - Mountaintop removal mining

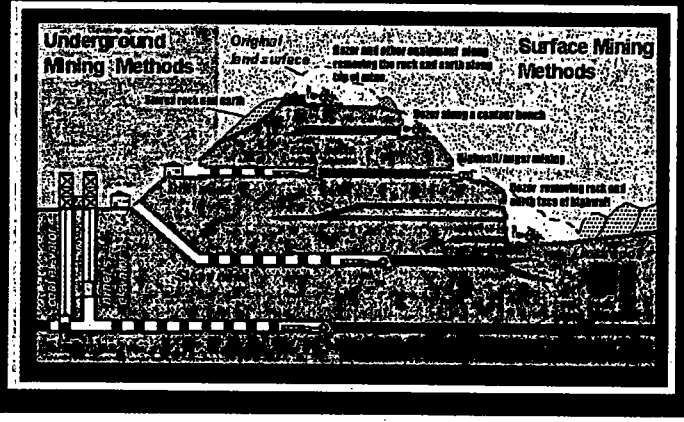
The Basics

Surface mining in general and mountaintop mining in particular, play an essential role in keeping West Virginia coal competitive in the global marketplace.

Production from surface mine operations constitutes approximately 40 percent of the total production of West Virginia's coal mines (68 million tons of a total of 161 million tons).

Types of Mining

- Surface Mining
  - Contour Mining
  - Auger Mining
  - Mountaintop Removal Mining
- Underground
  - Room and Pillar
  - Longwall



Mountaintop Mining

- **MOUNTAINTOP MINING** is simply coal mining that occurs at or near the topmost portion of a mountain.

A Diagrammatic Overview of the Process:
Courtesy of the Environmental Protection Agency.
www.epa.gov/region3/mtntop/process.html.

Step 1. Layers of rock and dirt above the coal (called overburden) are removed

Step 2. The upper seams of coal are removed with spoils placed in an adjacent valley

Step 3. Draglines excavate lower layers of coal with spoils placed in spoil piles

Step 4. Regrading begins as coal excavation continues

Step 5. Once coal removal is complete, final regrading takes place and the area is revegetated

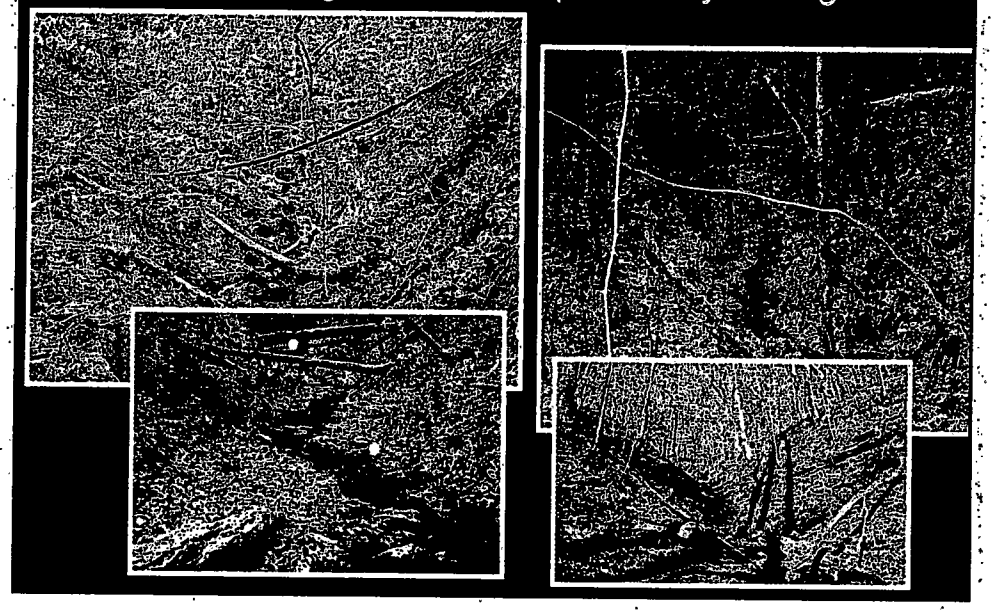
Mountaintop Mining

Surface mining methods are essentially the same as highway construction

- **Valley fills** are areas where the rock and dirt from mining excavation is placed according to a plan designed by engineers and approved by government agencies.
- The fills usually occur in **dry stream beds** of what are known as **ephemeral or intermittent streams** – streams that flow only when it rains.

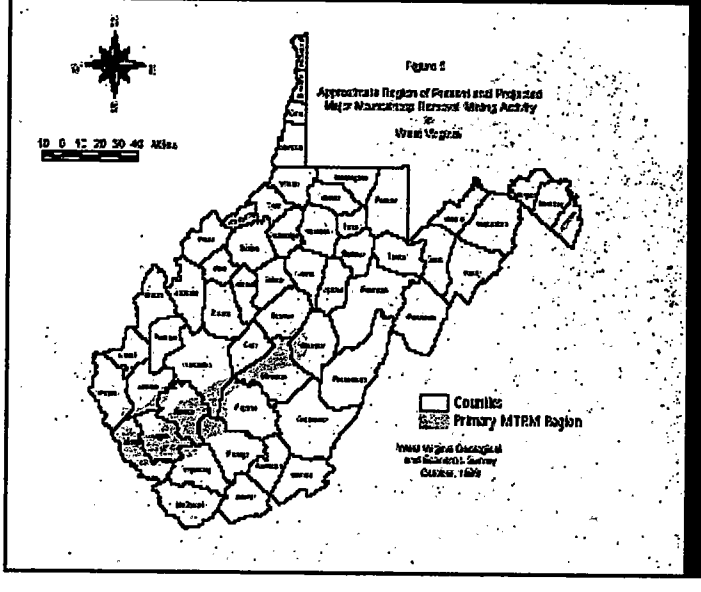
Mountaintop Mining

Pre-mining "streams" impacted by mining



Mountaintop Mining

Targeted operations in a defined area



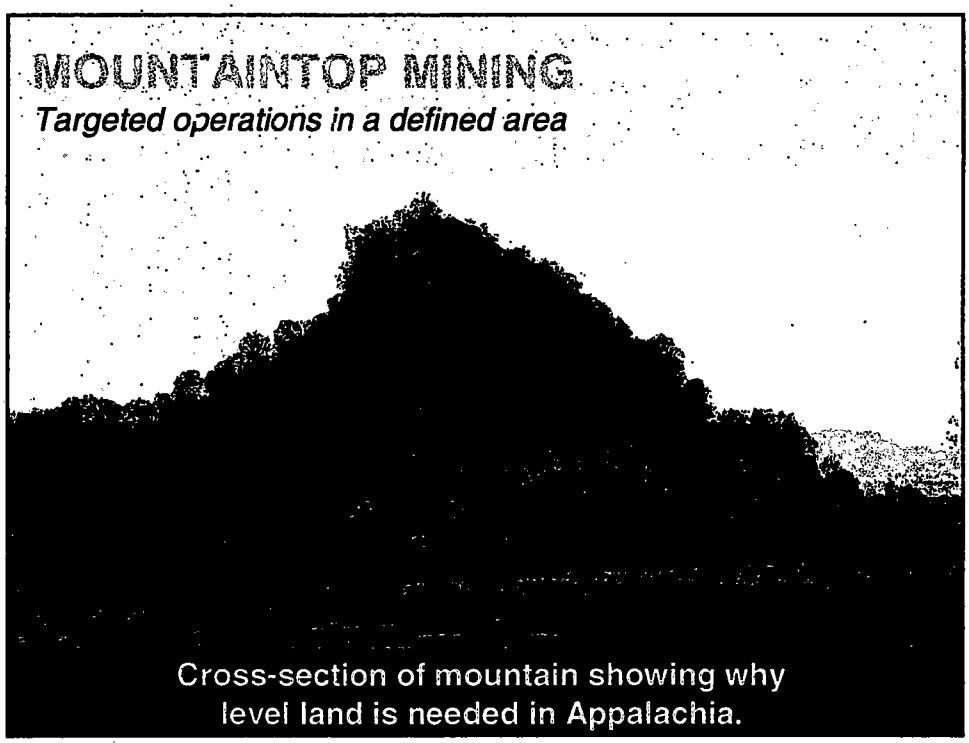
FACT: Only 6.8% of Appalachia has been or will be affected by mountaintop mining.

Mountaintop Mining

Critical to the future of communities

Surface Mining Production
Selected Counties

County	% Surface Mine Production	Total Production
• Boone	82 percent	34 million tons
• Clay	95 percent	4 million tons
• Fayette	43 percent	4 million tons
• Kanawha	42 percent	12 million tons
• Logan	69 percent	15 million tons
• Mingo	53 percent	12 million tons
• McDowell	50 percent	6 million tons
• Nicholas	72 percent	4 million tons
• Raleigh	46 percent	9 million tons
• Wayne	55 percent	5 million tons
• Webster	83 percent	5 million tons
• Wyoming	46 percent	5 million tons



Cross-section of mountain showing why level land is needed in Appalachia.

Landowners benefit from mountaintop mining

- What was once steep inaccessible hillside now has potential for development.
- Landowner is paid over $3,000 per acre (assume 4 foot seam) for the temporary use of his land originally valued at $300 per acre.
- Landowner is left with level land with a wide road to its top and ponds.
- Landowner realizes increased property value.
- Mineral owner will get $15,000+ per acre.

When a landowner is approached about mining their land, the first question asked is, "**Will you leave me some flat land?**"

Mountaintop Mining
REGULATION

- Mining operations are regulated under the Clean Water Act (CWA), including discharges of pollutants to streams from valley fills (**CWA Section 402**) and the valley fill itself where the rock and dirt is placed in streams and wetlands (**CWA Section 404**).

- Coal mining operations are also regulated under the **Surface Mining Control and Reclamation Act of 1977 (SMCRA)**.

- SMCRA addresses the necessary approvals for surface mining operations, as well as inspection and enforcement of mine sites until reclamation responsibilities are completed and all performance bonds are released. **Only if it has been shown that the proposed mining activities will satisfy general performance standards applicable to all surface coal mining operations.**

RESTORATION
The Facts in Photos

Surface Mining
What you always see!

Active MTR and Contour Mining

Surface Mining
The Rest of the Story

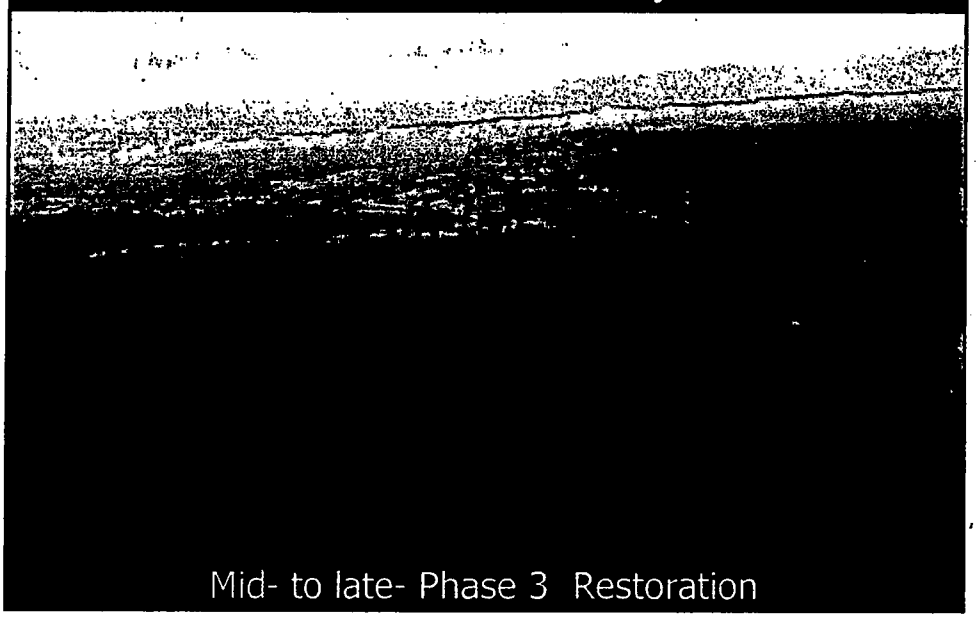
The second phase is "revegetation."

Surface Mining
The Rest of the Story

Early Phase 3 reclamation – "reforestation"

Surface Mining

The Rest of the Story



Mid- to late- Phase 3 Restoration

Surface Mining

The Rest of the Story

Constructed water features enhance post-mining wildlife.

Surface Mining

The Rest of the Story

Another shot of the naturalization of the land.

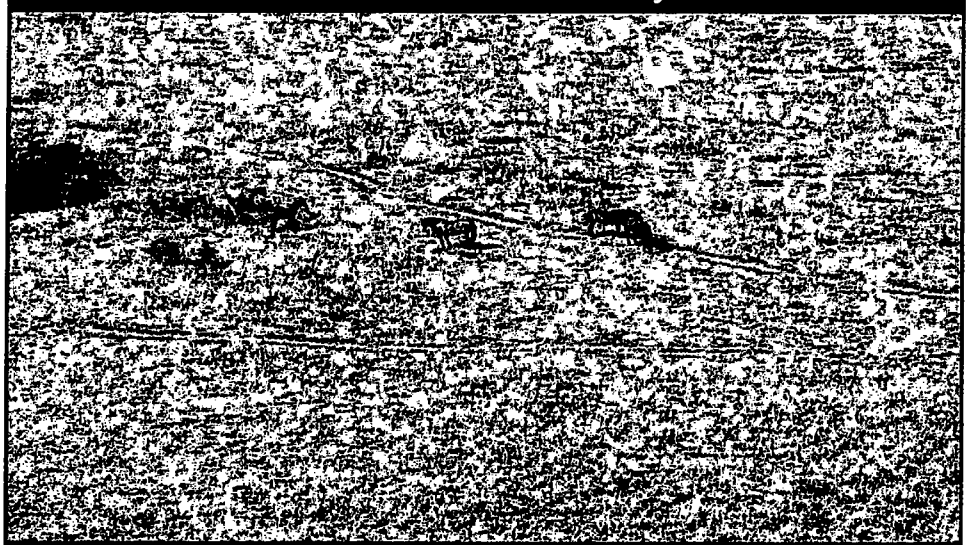
Surface Mining

The Rest of the Story

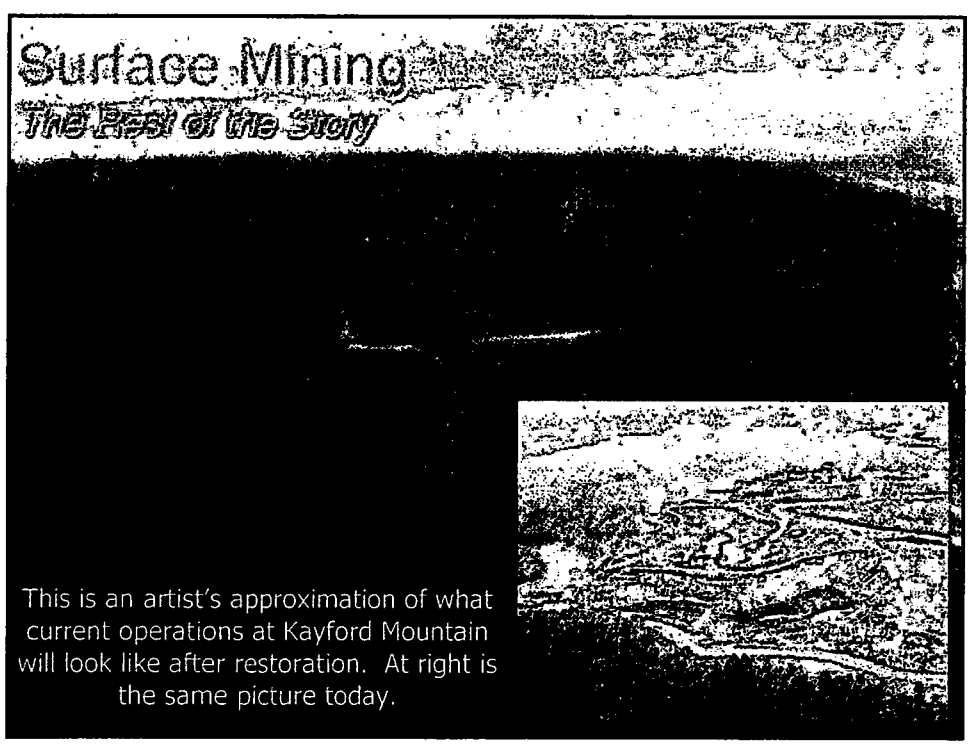
Naturalized Pond, Breathitt County, KY (2007)

Surface Mining

The Rest of the Story



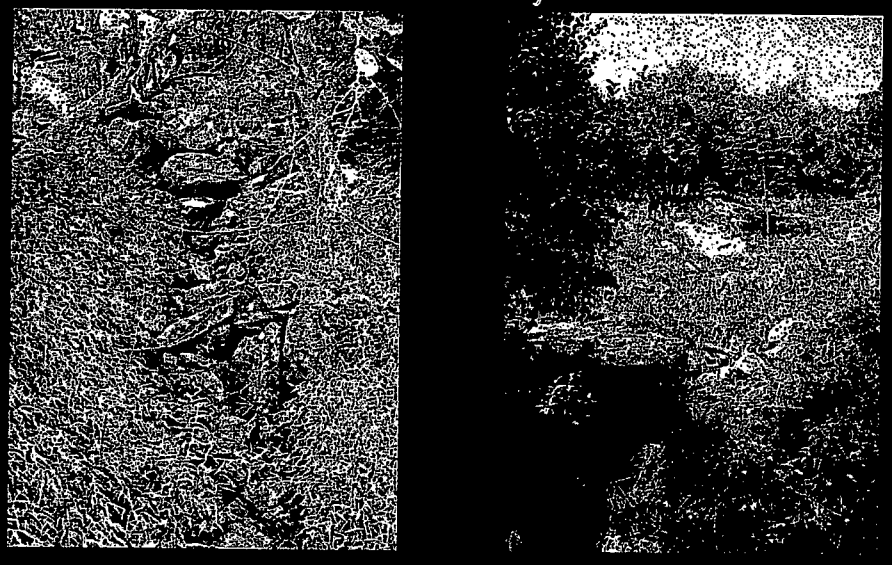
Wild Horses in Breathitt County, KY (2007)



This is an artist's approximation of what current operations at Kayford Mountain will look like after restoration. At right is the same picture today.

RESTORATION

Photos after 22 years

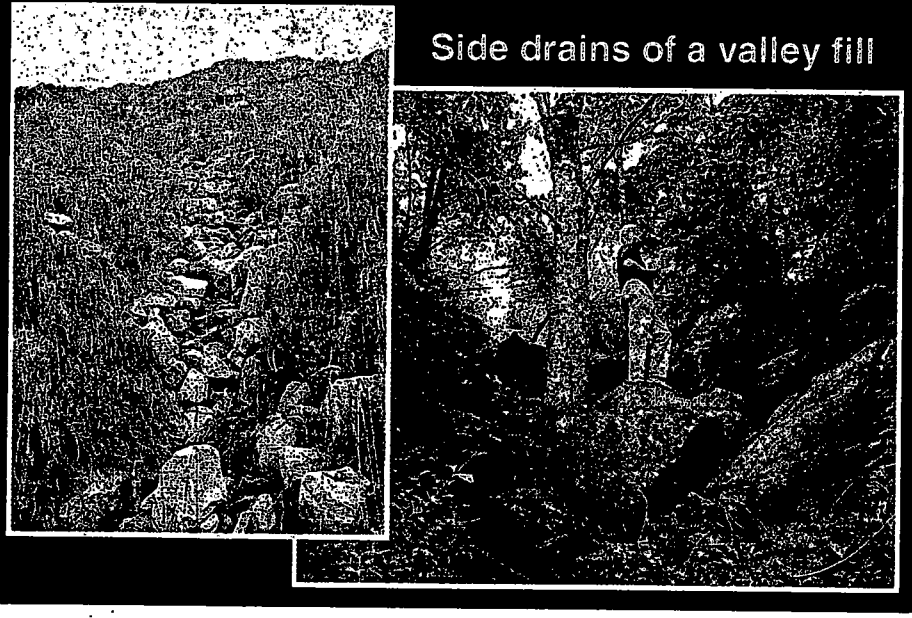


Side drains (Floyd County)

RESTORATION

Before and After (22 years)

Side drains of a valley fill



Alternate Post-Mining Land Use

... and now, the rest of the story

Alternate Post-Mining Land Use

- SMCRA permits surface mined lands to be left in various non-original contour configurations if an alternative use is part of the planning (ie, recreation, industrial development, education, etc.)

Alternate Post-Mining Land Use

MINING creates level land, land that has the potential for many other uses. Properly planned, mountaintop mining can truly be said to be "building a new West Virginia."

- DEVELOPED SITES
  - West Virginia:
    - Pete Dye golf course
    - Mount View High School built in 1980
    - New Hope Village - homes for 70 families
    - Knights of Columbus Community Park built in the 1980's by Buffalo Coal Co
    - Davis Cemetery
    - Robert Byrd High School built in the 1970's
    - Logan County Airport
    - Weirton housing development and hospital
    - Anker Sports Complex
    - Twisted Gun Golf course
    - Hilltop hunting preserve
    - Hatfield-McCoy Trail

Alternate Post-Mining Land Use

DEVELOPED SITES

- Kentucky

AIRPORTS
Big Sandy
RegionalAirport
Carroll Airport
Ford Airport
Ohio County Airport
PRISONS
Federal Correctional
Institute
East Kentucky
Correctional Complex
Medium Security Prison
Knot County
Otter Creek Correctional
Center
Juvenile Boot Camp
EDUCATION
Clements Job Corps
Center
Army National Guard
Training Center
LANDFILLS
Six solid waste landfills
GOVERNMENT
SERVICES
Hazard Armory; jail and
state police barracks

Alternate Post-Mining Land Use

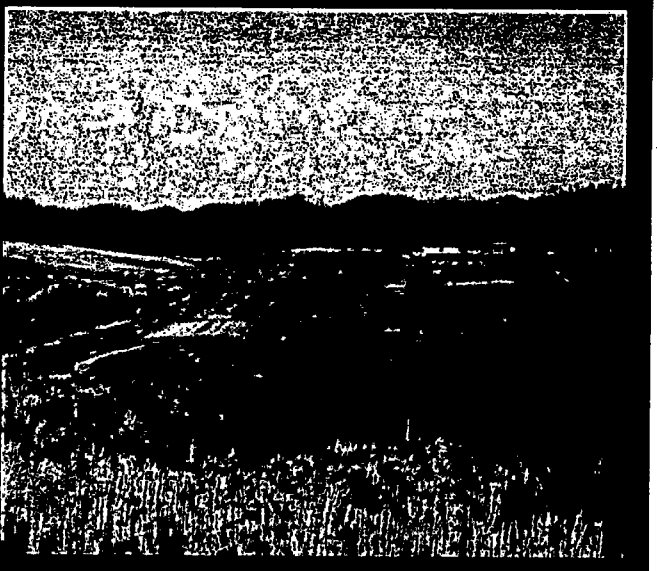
The Rest of the Story

Former surface mines can provide the flat land so essential to industrial and community development

Alternate Post-Mining Land Use

The Rest of the Story

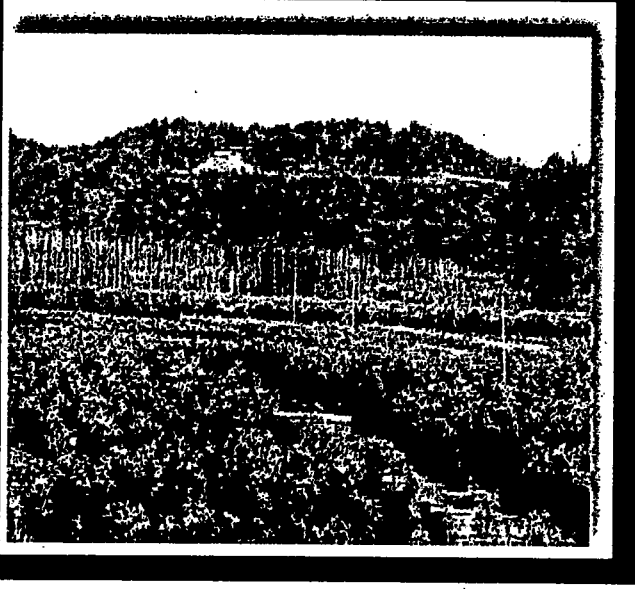
Logan Airport is built on former surface mine lands and provides access to the area.



Alternate Post-Mining Land Use

The Rest of the Story

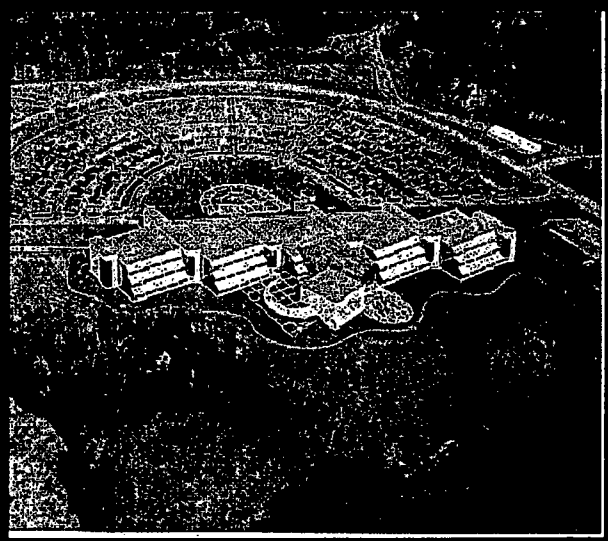
Post-mined land can also be used for commercial agriculture, such as this vineyard and commercial nursery



Alternate Post-Mining Land Use

The Rest of the Story

The FBI Center in Fairmont is built on a former surface mine site. It provides jobs for hundreds and served as a development springboard for the area



Alternate Post-Mining Land Use

The Rest of the Story

The Twisted Gun Golf Course near Logan is an 18-hole gem that provide British-style play. It is on a former mountaintop removal site.

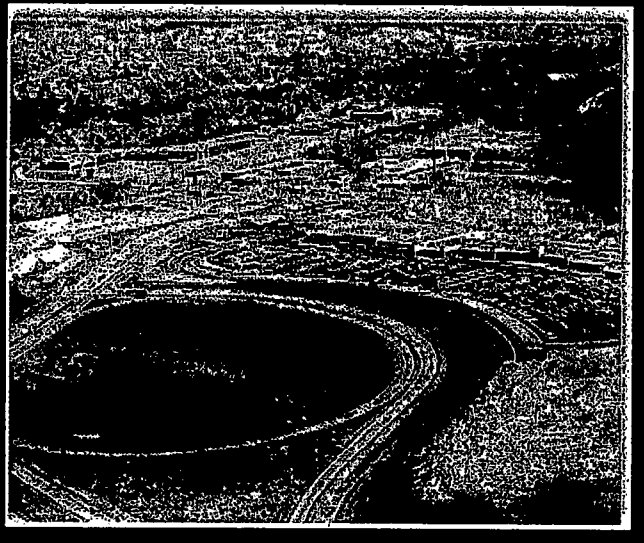
Alternate Post-Mining Land Use

Housing subdivision in Hazard.

Alternate Post-Mining Land Use

The Rest of the Story

A shopping mall in Bridgeport shows the wide range of development made possible across the state by the cooperation of mining and local planners.



Big Sandy Regional Airport (Martin County) – 2003

Alternate Post-Mining Land Use

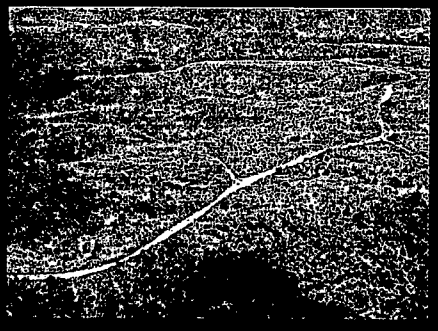
The Rest of the Story

Former mine lands provide sites for everything from hospitals to industrial plants, golf courses to schools and anything in between.

Vision for Tomorrow

Active

Reclaimed



THE MAIN ARGUMENT

"Elimination of surface mining will shift production to underground mining, which employs more people."

Answer: Not true and very misleading.

Productivity

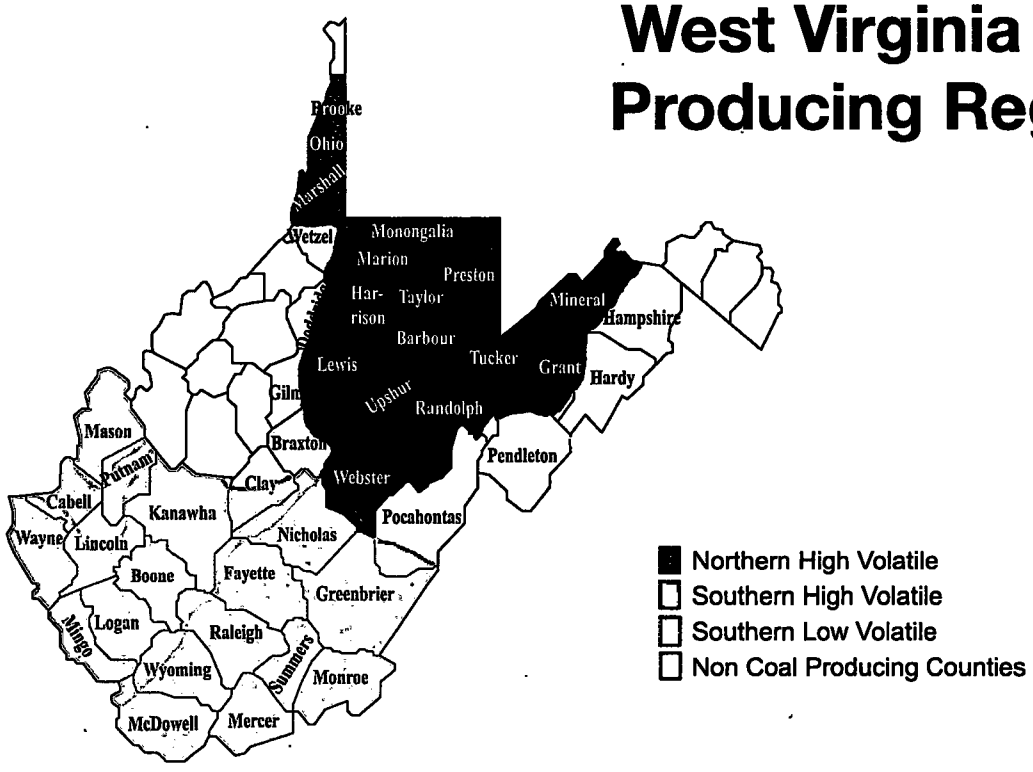
- Underground mining --- 6,127 tons/miner
- Surface mining --- 7,789 tons/miner

Surface mining is 27% more efficient than underground mining.

Five Points Favoring Coal

- **Abundant** – 250 years supply.
- **Affordable** – Kentucky has cheapest electrical rate in the nation because of coal.
- **Reliable/Secure** – American made and not subject to dependence on foreign suppliers.
- **Jobs** – Employs many more workers than any other energy source, in the mining, transportation, and burning of coal.
- **Clean** – Coal can be burned cleanly using clean coal technology.

West Virginia Coal Producing Regions



West Virginia Coal Facts At A Glance

Total Production	161,237,538
Underground	92,818,215
Surface	68,419,323
Coal Companies Operating in WV	233
Number of Mines	552
Underground	308
Surface	244
Record Production Year - 1997	181,914,000
Recoverable Coal Reserves	52,300,602,979
West Virginia Coal Employment	34,527
Underground	13,053
Surface	6,154
Coal Handling Facilities	2,342
Contractors	12,978
Transportation	
Rail	94,492,903
River	16,436,676
Truck	35,928,384
Estimated Average Annual Coal Wage	$62,700
Estimated Production Value 2007	$6,757,800,000
Estimated Coal Severance Tax	$418,000,000

Leading Coal Producing County	
Total Tonnage - Boone	33,628,338
Underground - Marion	13,229,230
Surface - Boone	20,969,229
Highest Employment by County - Boone	4,122
County With Most	
Coal Reserves - Boone	3,685,104,792
Leading Coal Producing Corporate Group	
CONSOL Energy, Inc.	33,105,979
Leading Coal Producing Company	
Consolidation Coal Co.	18,147,493
Largest Underground Mine	
McElroy Mine, McElroy Coal Co.	9,667,258
Largest Surface Mine	
Twilight, Independence Coal Co.	5,125,290
Largest Mine Employment	
McElroy Mine, McElroy Coal Co.	813
Largest Producing Mining Method	
Continuous Miner	54,642,629
Largest Producing Coal Seam	
Pittsburgh	34,455,192

All values expressed in tons except for dollar figures and employment

Comments of Chris Hamilton, Chairman, Coalition on Mountaintop Mining to HB 340 before the Committee on the Environment and Natural Resources, North Carolina House of Representatives, Raleigh, North Carolina. April 21 2009.

Good afternoon. Madam Chairman, Committee Members, My name is Chris Hamilton, Chair, Coalition on Mountaintop Mining. We sincerely appreciate the opportunity to be here today to address your Committee. The Coalition is comprised of coal producing companies, working miners and mine managers; elected office holders, mine vendors equipment companies, land companies and citizens for coal. We are headquartered in Charleston WV and represent a three (3) state region including WV, KY, & VA.

Joining me today are Roger Horton (UMW), Bill Raney (WVCA) Art Kirkendoll (Logan County Commission/Corridor G Development) Bill Caylor (KCA) and John Heard (VCA). We are here on behalf of the men and woman who have devoted a career, some a lifetime, towards providing this region, our country and world with low coast reliable (24/7) household and industrial energy. Energy, that has enabled us to be the greatest, most powerful country in the world with the highest of quality of life of any other land or destination.

We are here today to oppose HB 340 and to encourage you not to enact legislation that will have a detrimental effect on our state and its workers – workers who are highly skilled, educated and who work within the coal mining industry daily to provide for their families. They are masterful at what they do and do it with great pride and sophistication.

These are hardhat jobs – brawn & brains! On average, our miners make upwards of $50 - $60k a year. That's buying and household spending power in our communities. Responsible for cars, homes, utilities, groceries and college tuitions and yes, vacations to North Carolina.

Our country is struggling economically and all states are feeling the pain. We're all searching for economic stimulus and ways to grow our job base. It is inconceivable to us why any person or legislative body would want to take another's job.

As I'm sure you're aware, coal mining and the production of energy are major economic drivers behind our state. Collectively, they are responsible for thousands of good paying jobs, more than 70 percent of all business taxes and a secure revenue stream for all fifty-five counties and local governments. These dollars support educational and much-needed government programs for seniors and the less fortunate.

On a statewide basis, surface mining and mountaintop mining methods account for over 40 percent of our state's total tonnage produced on an annual basis, but in several regions or counties, it represents over 75% of all mining and thus, all revenues generated from mining activity. So, it is clear that surface mining and mountain top mining are extremely important to our energy portfolio and states financial stability.

On the surface, HB 340, appears to be aimed at "mountaintop mining", an objective we would strongly argue and method of mining we would defend on its own merits (again, it represents a large segment of our industry and state's economy).

Additionally, you simply cannot single out one form of mining without having severe unintentional (or maybe "intentional" consequences). As written, HB 340 includes all forms of mining which have "valley fills". By definition, that accounts for every form of mining in our state, and well as KY and VA. including underground mines.

Plainly and simply put HB 340 completely removes coal (from all forms of mining) from your energy mix. It would be like enacting a law in WV or in some other state that would preclude the purchase of finished furniture (in our state) of oak or cherry or any other trees that comes from the ground or native soil.

You simply cannot disturb the geology within our steep slope or mountainous region without valley fills. The same is true for any type of major development or construction including road construction within this same region.

Valley fills involve placing natural rock and dirt in ravines or dry ditches (natural crevices) that only pass water during some form of a precipitation event.

A valley fill is a carefully engineered structure. It is designed to secure natural material in the earth's natural formation. Their construction is safe, environmentally sound and secure. The material placed in the fill is the same material that was there prior to mining i.e. natural rock & dirt. The water continues to trickle through fill construction just as it did before mining – through the same material through the same location.

When adversaries of mining, or uninformed journalists, criticize this method of mining, they frequently limit their characterization to the initial impacts of the extractive phase i.e. blasting or some other earth moving activity. They seldom mention the restoration phase of mining or the post mining development that sequentially follows the extractive process.

These mischaracterizations no only cast a negative light on an important segment of our State's industrial base but also serve as an affront to every working miner, their families and to all West Virginians.

We often use a new housing development as analogous to mining i.e. during the actual mining or coal removal phase, it is not always "pretty" just as a new housing site with partially completed roads, exposed infrastructure and houses in various state of construction. However, when you examine the same site several months later when the roads and landscaping are finished, it's a different visual altogether. Undoubtedly, the finished job is more esthetically pleasing.

Most of the mine sites are returned to a higher and better use or at a minimum to their original approximate contour. (Yes, we rebuild mountains in West Virginia.) Many of the former mine sites are reforested with wildlife habitat incorporated into the final plan and a number of the former mine sites are reconfigured by the mining company to accommodate residential, industrial or recreational use.

I note with interest the relatively flat terrain that accommodates all the business parks and commerce centers here in Raleigh. We do not have this type of terrain in either WV or KY. In order to have this type of commerce opportunity, we must move mountains of rock and dirt. With proper planning which incorporates layout and design of our mining operations, we are able to create usable parcels of land while minimizing the front end cost of earth removal and site preparation.

In West Virginia, we have example after example of housing developments, shopping centers, high schools, correctional facilities and even nationally acclaimed golf courses in place today where mining once took place. As they say – "a picture paints a thousand words", so I'm attaching to my testimony a few pictorial examples of finished land restoration sites and a number of the aforementioned recreational or public use sites.

West Virginia is a shining example of how we can have a viable energy industrial base which employs upwards of 50,000 West Virginians and is responsible for a large percentage of the State's Gross Product and tax base but also a thriving tourism business where people come from all over the world to take advantage of our hiking, canoeing, white watering, camping due to our natural beauty and post mine land development.

The truth of matter is that our mine managers, miners take great pride in their work and devote great attention to environmental stewardship and accomplishment. They not only work the land but they also hunt and enjoy the land.

I've also attached with my testimony some additional facts on mining in West Virginia.

The states of North Carolina and West Virginia have been closely aligned over the years through everyday trade and commerce. An exchange that we would very much like to see continue that enables both our states to prosper.
Every year thousands of West Virginians travel to North Carolina for vacation and to purchase fine furniture, automobiles and other commodities and many North Carolinians routinely come to West Virginia for tourism and to take advantage of our state's many recreational and scenic destinations.

For these reasons I would urge you to stop further consideration of HB 340. I'll close by inviting you to invite others to come to West Virginia to tour our natural beauty and coal mining industry and to visit the men and woman who provide the state, country and world with low-cost, household energy.

Thank You.

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

April 21 , 2009
Date

SPEAKERS SUPPORTING HB 340: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

Name	Representing (Agency/Company)
~~Austin Hall~~	
Anne Leake	interested resident from TN
Dr. Matt Wasson	Appalachian Voices

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

April 21 , 2009
Date

SPEAKERS SUPPORTING HB 340: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

Name	Representing (Agency/Company)
Margaret Harteen	Environment North Carolina

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

April 21 , 2009
Date

SPEAKERS OPPOSING HB 340: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

Name	Representing (Agency/Company)
✓ Shasha Weintraub	Progress Energy
Vince Stroud	Duke Energy
Chris Hamilton	W-VA COAL ASSOCIATION
Sean Finsel	Moen
ART Kirkendoll	President- LOGAN COUNTY COMMISSION
Bill Raney	WV Coal
JOHN HEARD	VA COAL ASSOC

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

April 21 , 2009
Date

SPEAKERS OPPOSING HB 340: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

	Name	Representing (Agency/Company)
★	Sasha Weintraub	Progress Energy
★	Vince Stroud	VP, Regulated Fuels, Duke Energy
	Chris Hamilton	W. Va Coal Assn
	Art Kirkendoll	Pres., Logan County KY Commrs. & Chair Corridor G Development.
	John Heard	VA Coal Assn
	Joe Carter	V-P, Dist. 31, United Mine Workers
	Bill Caylor	Pres., KY Coal Assn
	Roger Horton	UMW Citizens for Coal
	Bill Raney	Pres., WVA Coal Assn
	Sean Seam Finsel	Moen Bowden, Inc

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — **Name of Committee**

April 21, 2009 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sharon Miller	CUCA
Cameron Hanley	Electricities of NC
Lucy Edmondson	Public Staff - NC Utilities Comm
James McLawhorn	" "
Leslie Arnold	SOG - Daily Bulletin
Rocky Adkins	Logan County Development Authority
James O. Bunn	Chairman West Virginia Coal Ass.
Arthur E. Kirkendoll	President - Logan County Commission
Andrew Meeher	NC Elec coops
Jerry Haddock	NCRC
Chris Wills	Duke Energy
Kim Hibbard	NCLM
Larry Shirley	State Energy Office
John Shaw	SELF

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — April 21, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
George Everett	Duke Energy
Chris Hamilton	WV Coal Association
Mike Hughes	Progress Energy
Kathy Hawkins	Progress Energy
Sasha Weinman	Progress Energy
Alicia Pan	MWC
[illegible]	EC
David Kelly	Environmental Defense Fund
Laurin Massengale	Environmental Defense Fund
Kris Coracini	" " "
Sean Finsel	LUCA

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — April 21, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Heather Barrett	Hunton & Williams
	NC Electric Cooperatives
Nancy Thompson	Weyerhaeuser
Steve Metcalf	NC Electric Coop
	TPG
	MWC
	Progress Energy
	NCFB
Ed Finlay	NLine

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — April 21, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bill Raney	WV Coal
[illegible]	WV Coal
Heather Mims	Gov's Page
Hailey Cleveny	Gov's Page
Tiffany Simon	Gov's Page
Quyonta Patterson	Gov's Page
[illegible]	Gov's Page
Destiny Bullock	Gov's Page
Dan Crawford	CCNC
Scott Gallowitzer	Appalachian Voices
Shay K Bonzo	Appalachian Voices
Tom Beau	NC EDF, NCWF

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — April 21, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
David Cane	Appalachian Voices
Jeff Deal	Appalachian Voices
JOHN HEARD	VA COAL ASSOC.
Margaret Hartzell	Environment North Carolina
Ben Kincaid	Appalachian Voices
Susan Williams	Appalachian Voices
Howard Apps	App. State U.
Erica Palmer	Appalachian Voices
Sandra Diaz	Appalachian Voices
Amanda Lewis	Appalachian Voices
Bill Caylor	Kentucky Coal Association

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — April 21, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	NCGA
Joe McClees	McClees Consulting
Bruce Thomason	Parker Poe
Elizabeth Riser	DENR
Robin Smith	DENR
R Rogers	CLWMTF
Gordon McCallie	NC Conservation Network.

House Pages

ENVIRONMENT & NAT. RES.
Name of Committee: _____ Date: APRIL 21, 2009

1. Name: Aaron Henryhand
   County: Sampson
   Sponsor: TCA
2. Name: Chris Hoerning
   County: Sampson
   Sponsor: Tarheel Challenge academy
   Name: _____
   County: _____
   Sponsor: _____
4. Name: _____
   County: _____
   Sponsor: _____
5. Name: _____
   County: _____
   Sponsor: _____

Sgt-At-Arms

1. Name: FRED HINES - FRANK PREVO
2. Name: CARLTON ADAMS - DAVID SHEARON
3. Name: CHARLES COKER
4. Name: HENRY WORTH

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE MEETING

APRIL 28, 2009
12:00 NOON
Room 643 LOB

Representative Lucy T. Allen, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

HB 643 - Authorize Aquifer Storage of Reclaimed Water
Primary Sponsor: Rep. Tucker

HB 239 - Disapprove Jordan Lake Rules
Primary Sponsors: Allen, Gibson, and Bordsen
(Distribution of Proposed Committee Substitute - ONLY)

ADJOURNMENT

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

April 28, 2009

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Tuesday, April 28, 2009, in room 643 of the Legislative Office Building. Representative Lucy T. Allen presided. Members present were: Representatives Gillespie, Harrison, Tarleton, and Underhill, Vice-Chairs; Representatives K. Alexander, Floyd, Gibson, Haire, Insko, Killian, Luebke, Martin, McComas, McElraft, Samuelson, Stiller, Tucker, West, and Womble.

Representative Allen called the meeting to order at 12:02 p.m. She began by introducing the pages: Colby White, Stokes County (sponsored by Representative Holloway) and Jessica Metts, Jones County (sponsored by Representative McElraft). She next presented the Sergeant-at-arms staff: Young Bae, Carlton Adams, Earl Coker, David Shearon, and James Worth.

The first item on the agenda was HB 643 – A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE INJECTION OF RECLAIMED WATER INTO AN AQUIFER FOR TEMPORARY STORAGE. Representative Tucker was recognized to present the bill to the committee. Representative Floyd was recognized for a motion to place a proposed committee substitute for HB 643 before the committee. There being no objection, the PCS was distributed to committee members. Representative Tucker gave the background information that led him to introduce this legislation. Following his presentation, Representative Allen invited questions from committee members. Several members expressed concerns and a desire for this bill to go to a study committee. Following questions and comments, Representative Allen invited speakers to present their opinions on the bill. She apologized that speakers would have to limit their time to two minutes each, but invited them to submit written remarks for distribution to the committee members.

The first speaker was Dale Swiggett, publisher and editor of "Waterfront Sportsman." He requested that the committee table the bill, then continued to enumerate the reasons he was opposed to the legislation. The second speaker, also speaking in opposition to the bill, was Tess Sanders, White Oak-New Riverkeeper from Onslow County. She spoke of adverse effects on the aquifer in her area and enumerated her concerns, should this bill become law. Representative Allen next recognized Don Safrit, Professional Engineer with the Professional Engineers Association of North Carolina. He spoke of the safety and desirability of using reclaimed water as well as the need for this. The final speaker was Frank Sanders, Director of Engineering with the Onslow Water and Sewers Authority. He elaborated on the water conservation elements of the legislation and the need to move quickly and not move the bill into a study committee. He talked of the growth in the area and the pending water shortage. He submitted a presentation, which was distributed to committee members (copy attached).

At this time Representative Harrison was recognized to send forth an amendment (amendment #1, attached) to create a study based on this proposed bill. The amendment indicated that the bill should go to the Legislative Research Commission, but after input from committee members, she requested that the bill be sent instead to the Environmental Review Commission. This amendment was discussed and questioned at length by committee members. Representative Tucker stepped forward and asked that members vote No on the proposed amendment. Additional questions and concerns surfaced, therefore, Representative Allen, at the suggestion of staff, announced that the bill would be held over until the next meeting, allowing time for staff to meet with Representative Harrison and the bill's sponsor to work out issues and create another proposed committee substitute for the consideration of the committee.

The next bill before the committee was HB 239 – A BILL TO BE ENTITLED AN ACT TO DISAPPROVE THE JORDAN WATER SUPPLY NUTRIENT STRATEGY RULES. Representative Allen indicated that there would be a presentation on this bill, but no vote would be taken at this meeting. The presenter was Rich Gannon with the Division of Water Quality, who used a slide show to supplement his talk. He brought the members up-to-date by reviewing efforts over the past several years to address the problems and issues that the Division believed indicated a need for such legislation. When he finished, Representative Allen opened the floor for brief comments from committee members. At the conclusion of the meeting, a proposed committee substitute for HB 239 was distributed to the committee so they might review it before the bill came before the committee for consideration at a later date.

With no further business to come before the committee, the meeting was adjourned at 12:51 p.m.

Respectfully submitted,

Representative Lucy T. Allen, Chair

Shara Graham, Committee Assistant

HOUSE BILL 643

Short Title:	Authorize Aquifer Storage of Reclaimed Water.	(Public)
Sponsors:	Representative Tucker.	
Referred to:	Water Resources and Infrastructure, if favorable, Environment and Natural Resources, if favorable, Finance.	

March 18, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE INJECTION OF RECLAIMED WATER INTO AN AQUIFER FOR TEMPORARY STORAGE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-214.2(b) reads as rewritten:

"(b) The discharge of any wastes to the subsurface or groundwaters of the State by means of wells is prohibited. This section shall not be construed to prohibit the operation of any of the following:

(1) ~~closed-loop~~A closed-loop groundwater remediation ~~systems~~ system in accordance with G.S. 143-215.1A.

(2) A reclaimed water aquifer storage and recovery system in accordance with G.S. 143-215.1D."

SECTION 2. G.S. 143-215.1(a) reads as rewritten:

"(a) Activities for Which Permits Required. – No person shall do any of the following things or carry out any of the following activities unless that person has received a permit from the Commission and has complied with all conditions set forth in the permit:

...

(13) Construct, use, or operate any well for recharge, injection, or disposal purposes.

(14) Alter, extend, or change the construction or method of operation of any injection well."

SECTION 3. G.S. 143-215.1(d) reads as rewritten:

"(d) Applications and Permits for Sewer Systems, Sewer System ~~Extensions and~~Extensions, Pretreatment Facilities, Land Application of Waste, Injection Wells, and ~~for~~ Wastewater Treatment Facilities Not Discharging to the Surface Waters of the State. –

(1) All applications for new permits and for renewals of existing permits for sewer systems, sewer system ~~extensions and for~~extensions, disposal systems, ~~and for~~ land application of waste, ~~or~~ injection wells, and treatment works ~~which~~ that do not discharge to the surface waters of the State, and all permits or renewals and decisions denying any application for permit or renewal shall be in writing. The Commission shall act on a permit application as quickly as possible. The Commission may conduct any inquiry or investigation it considers necessary before acting on an application and may require an applicant to submit plans, specifications, and other information the Commission considers necessary to evaluate the application. If the Commission fails to act on an application for a permit, including a renewal

of a permit, within 90 days after the applicant submits all information required by the Commission, the application is considered to be approved. Permits and renewals issued in approving such facilities pursuant to this subsection shall be effective until the date specified therein or until rescinded unless modified or revoked by the Commission. Local governmental units to whom pretreatment program authority has been delegated shall establish, maintain, and provide to the public, upon written request, a list of pretreatment applications received.

(2) An applicant for a permit to dispose of petroleum contaminated soil by land application shall give written notice that he intends to apply for such a permit to each city and county government having jurisdiction over any part of the land on which disposal is proposed to occur. The Commission shall not accept such a permit application unless it is accompanied by a copy of the notice and evidence that the notice was sent to each such government by certified mail, return receipt requested. The Commission may consider, in determining whether to issue the permit, the comments submitted by local governments."

SECTION 4. Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-215.1D. Reclaimed water aquifer storage and recovery systems allowed.**

(a) As used in this section, "reclaimed water aquifer storage and recovery system" means a system and attendant process for the injection of reclaimed water into an aquifer for temporary storage followed by recovery and beneficial reuse of the water.

(b) The Secretary may issue a permit for the siting, construction, and operation of a reclaimed water aquifer storage and recovery system. Permits shall be issued in accordance with G.S. 143-215.1 and applicable rules of the Commission.

(c) A permit for a reclaimed water aquifer storage and recovery system shall specify the location and depth at which groundwater is to be injected and shall specify design, construction, operation, and well abandonment requirements for the reclaimed water aquifer storage and recovery system necessary to ensure that the treated reclaimed water will be captured by the recovery system. The Secretary may impose any additional permit conditions or limitations necessary to:

(1) Specify or limit the distance between the point at which reclaimed water is injected into the groundwater and the point at which reclaimed water is recovered for beneficial reuse.

(2) Specify the minimum or maximum gradients between the point at which reclaimed water is injected into the groundwater and the point at which reclaimed water is recovered for beneficial reuse.

(3) Specify or limit the chemical, physical, or biological treatment processes that may be used.

(4) Protect the environment, natural resources, or public health.

(d) The Commission shall adopt rules to implement this section."

SECTION 5. G.S. 143-215.3D(a) reads as rewritten:

"(a) Annual fees for discharge and nondischarge permits under G.S. 143-215.1. –

(1) Major Individual NPDES Permits. – The annual fee for an individual permit for a point source discharge of 1,000,000 or more gallons per day, a publicly owned treatment works (POTW) that administers a POTW pretreatment program, as defined in 40 Code of Federal Regulations § 403.3 (1 July 1996 Edition), or an industrial waste treatment works that has a high toxic pollutant potential is three thousand four hundred forty dollars ($3,440).

(2) Minor Individual NPDES Permits. – The annual fee for an individual permit for a point source discharge other than a point source discharge to which subdivision (1) of this subsection applies is eight hundred sixty dollars ($860.00).

(3) Single-Family Residence. – The annual fee for a certificate of coverage under a general permit for a point source ~~discharge or~~discharge, an individual nondischarge ~~permit~~ permit, or an individual injection well or well system permit from a single-family residence is sixty dollars ($60.00).

(4) Stormwater and Wastewater Discharge General Permits. – The annual fee for a certificate of coverage under a general permit for a point source discharge of stormwater or wastewater is one hundred dollars ($100.00).

(5) Recycle Systems. – The annual fee for an individual permit for a recycle system nondischarge permit is three hundred sixty dollars ($360.00).

(6) Major Nondischarge Permits. – The annual fee for an individual permit for a nondischarge of 10,000 or more gallons per day or requiring 300 or more acres of land is one thousand three hundred ten dollars ($1,310).

(7) Minor Nondischarge Permits. – The annual fee for an individual permit for a nondischarge of less than 10,000 gallons per day or requiring less than 300 acres of land is eight hundred ten dollars ($810.00).

(7a) Major Reclaimed Water Permits. – The annual fee for an individual permit for reclaimed water of 10,000 or more gallons per day shall be one thousand three hundred ten dollars ($1,310).

(7b) Minor Reclaimed Water Permits. – The annual fee for an individual permit for reclaimed water of less than 10,000 gallons per day shall be eight hundred ten dollars ($810).

(8) Animal Waste Management Systems. – The annual fee for animal waste management systems is as set out in G.S. 143-215.10G.

(9) Injection Well Permits. – The annual fee for an individual permit for an injection well or well system shall be eight hundred ten dollars ($810)."

SECTION 6. This act is effective when it becomes law.

HOUSE BILL 643:
Authorize Aquifer Storage of Reclaimed Water

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	July 14, 2009
Introduced by:	Rep. Tucker	**Prepared by:**	Jeff Hudson
Analysis of:	First Edition		Committee Counsel

SUMMARY: House Bill 643 would authorize the issuance of permits for the siting, construction, and operation of reclaimed water aquifer storage and recovery systems, which inject reclaimed water into an aquifer for temporary storage followed by recovery and beneficial reuse of the water.

CURRENT LAW:

Under current law, the injection of reclaimed water to the subsurface or groundwaters of the State by means of a well is prohibited.

BILL ANALYSIS:

House Bill 643 would authorize the issuance of permits for the siting, construction, and operation of reclaimed water aquifer storage and recovery systems. These systems allow for the injection of reclaimed water into an aquifer for temporary storage followed by recovery and beneficial reuse of the water.

Permits for reclaimed water aquifer storage and recovery systems must contain certain information and may contain various conditions or limitations. Permit fees are based on the type and capacity of the system.

The bill would also make a number of conforming changes to water quality statutes.

EFFECTIVE DATE:

This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 643
PROPOSED COMMITTEE SUBSTITUTE H643-CSSBf-12 [v.3]

4/27/2009 2:49:22 PM

Short Title: Authorize Aquifer Storage of Reclaimed Water. (Public)

Sponsors:

Referred to:

March 18, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE INJECTION OF RECLAIMED WATER INTO AN AQUIFER FOR TEMPORARY STORAGE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-213 reads as rewritten:

"**§ 143-213. Definitions.**

Unless the context otherwise requires, the following terms as used in this Article and Articles 21A and 21B of this Chapter are defined as follows:

...

(8a) The term "beneficial reuse" in reference to reclaimed water means a use that protects the environment through the efficient allocation and conservation of the potable water, groundwater, and surface water resources of the State.

...

(13a) The term "reclaimed water" means tertiary treated wastewater of a quality that will enable the water to be used for a beneficial reuse."

SECTION 2. G.S. 143-214.2(b) reads as rewritten:

"(b) The discharge of any wastes to the subsurface or groundwaters of the State by means of wells is prohibited. This section shall not be construed to prohibit the operation of any of the following:

(1) ~~closed-loop~~A closed-loop groundwater remediation ~~systems~~ system in accordance with G.S. 143-215.1A.

(2) An injection well as part of a reclaimed water aquifer storage and recovery system in accordance with G.S. 143-215.1D."

SECTION 3. G.S. 143-215.1(a) reads as rewritten:

"(a) Activities for Which Permits Required. – No person shall do any of the following things or carry out any of the following activities unless that person has received a permit from the Commission and has complied with all conditions set forth in the permit:

...

(13) Construct, use, or operate any injection well for the purpose of control of sources of water pollution.

(14) Alter, extend, or change the construction or method of operation of any injection well for the purpose of control of sources of water pollution."

SECTION 4. G.S. 143-215.1(d) reads as rewritten:

"(d) Applications and Permits for Sewer Systems, Sewer System ~~Extensions and~~Extensions, Pretreatment Facilities, Land Application of Waste, Injection Wells for the purpose of control of sources of water pollution, and ~~for~~ Wastewater Treatment Facilities Not Discharging to the Surface Waters of the State. –

(1) All applications for new permits and for renewals of existing permits for sewer systems, sewer system ~~extensions and for~~extensions, disposal systems, ~~and for~~ land application of waste, ~~or~~ injection wells for the purpose of control of sources of water pollution, and treatment works ~~which~~ that do not discharge to the surface waters of the State, and all permits or renewals and decisions denying any application for permit or renewal shall be in writing. The Commission shall act on a permit application as quickly as possible. The Commission may conduct any inquiry or investigation it considers necessary before acting on an application and may require an applicant to submit plans, specifications, and other information the Commission considers necessary to evaluate the application. If the Commission fails to act on an application for a permit, including a renewal of a permit, within 90 days after the applicant submits all information required by the Commission, the application is considered to be approved. Permits and renewals issued in approving such facilities pursuant to this subsection shall be effective until the date specified therein or until rescinded unless modified or revoked by the Commission. Local governmental units to whom pretreatment program authority has been delegated shall establish, maintain, and provide to the public, upon written request, a list of pretreatment applications received.

(2) An applicant for a permit to dispose of petroleum contaminated soil by land application shall give written notice that he intends to apply for such a permit to each city and county government having jurisdiction over any part of the land on which disposal is proposed to occur. The Commission shall not accept such a permit application unless it is accompanied by a copy of the notice and evidence that the notice was sent to each such government by certified mail, return receipt requested. The Commission may consider, in determining whether to issue the permit, the comments submitted by local governments."

SECTION 5. Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-215.1D. Reclaimed water aquifer storage and recovery systems allowed.**

(a) As used in this section, "reclaimed water aquifer storage and recovery system" means a system and attendant process for the injection of reclaimed water into an aquifer for temporary storage followed by recovery and beneficial reuse of the water.

(b) The Secretary may issue a permit for the siting, construction, and operation of a reclaimed water aquifer storage and recovery system. Permits shall be issued in accordance with G.S. 143-215.1 and applicable rules of the Commission.

(c) A permit for a reclaimed water aquifer storage and recovery system shall specify the location and depth at which reclaimed water is to be injected and shall specify design, construction, operation, and well abandonment requirements for the reclaimed water aquifer storage and recovery system necessary to ensure that the treated reclaimed water will be captured by the recovery system. The Secretary may impose any additional permit conditions or limitations necessary to:

(1) Specify or limit the distance between the point at which reclaimed water is injected into the groundwater and the point at which reclaimed water is recovered for beneficial reuse.

(2) Specify the minimum or maximum gradients between the point at which reclaimed water is injected into the groundwater and the point at which reclaimed water is recovered for beneficial reuse.

(3) Specify or limit the chemical, physical, or biological treatment processes that may be used.

(4) Protect the environment, natural resources, or public health.

(d) The Commission shall adopt rules to implement this section."

SECTION 6. G.S. 143-215.3D(a) reads as rewritten:

"(a) Annual fees for discharge and nondischarge permits under G.S. 143-215.1. –

(1) Major Individual NPDES Permits. – The annual fee for an individual permit for a point source discharge of 1,000,000 or more gallons per day, a publicly owned treatment works (POTW) that administers a POTW pretreatment program, as defined in 40 Code of Federal Regulations § 403.3 (1 July 1996 Edition), or an industrial waste treatment works that has a high toxic pollutant potential is three thousand four hundred forty dollars ($3,440).

(2) Minor Individual NPDES Permits. – The annual fee for an individual permit for a point source discharge other than a point source discharge to which subdivision (1) of this subsection applies is eight hundred sixty dollars ($860.00).

(3) Single-Family Residence. – The annual fee for a certificate of coverage under a general permit for a point source discharge or an individual nondischarge permit from a single-family residence is sixty dollars ($60.00).

(4) Stormwater and Wastewater Discharge General Permits. – The annual fee for a certificate of coverage under a general permit for a point source discharge of stormwater or wastewater is one hundred dollars ($100.00).

(5) Recycle Systems. – The annual fee for an individual permit for a recycle system nondischarge permit is three hundred sixty dollars ($360.00).

(6) Major Nondischarge Permits. – The annual fee for an individual permit for a nondischarge of 10,000 or more gallons per day or requiring 300 or more acres of land is one thousand three hundred ten dollars ($1,310).

(7) Minor Nondischarge Permits. – The annual fee for an individual permit for a nondischarge of less than 10,000 gallons per day or requiring less than 300 acres of land is eight hundred ten dollars ($810.00).

(8) Animal Waste Management Systems. – The annual fee for animal waste management systems is as set out in G.S. 143-215.10G.

(9) Major Reclaimed Water System Permits. – The annual fee for an individual permit for a reclaimed water system of 10,000 or more gallons per day shall be one thousand three hundred ten dollars ($1,310).

(10) Major Reclaimed Water System Permits with Reclaimed Water Aquifer Storage and Recovery systems. – The annual fee for an individual permit for a reclaimed water system with reclaimed water aquifer storage and recovery system of 10,000 or more gallons per day of reclaimed water generated, stored, or utilized shall be two thousand one hundred twenty dollars ($2,120).

(11) Minor Reclaimed Water System Permits. – The annual fee for an individual permit for a reclaimed water system of less than 10,000 gallons per day shall be eight hundred ten dollars ($810).

(12) Minor Reclaimed Water Permits with Reclaimed Water Aquifer Storage and Recovery Systems. – The annual fee for an individual permit for a reclaimed water system with reclaimed water aquifer storage and recovery system of less than 10,000 gallons per day of reclaimed water generated, stored, or utilized shall be one thousand six hundred twenty dollars ($1,620).

(13) In-situ Groundwater Remediation Injection Well Permits. – The annual fee for an individual permit for an injection well or well system shall be eight hundred ten dollars ($810).

(14) Reclaimed Water Aquifer Storage and Recovery Injection Systems. - The annual fee for an individual permit for a reclaimed water aquifer storage and recovery well system shall be eight hundred ten dollars ($810)."

SECTION 7. This act is effective when it becomes law.

HOUSE BILL 643:
Authorize Aquifer Storage of Reclaimed Water

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	April 28, 2009
Introduced by:	Representative Tucker	**Prepared by:**	Jeff Hudson Committee Counsel
Analysis of:	PCS H643-CSSBf-12 [v.2]		

SUMMARY: ***The Proposed Committee Substitute for House Bill 643 would authorize the issuance of permits for the siting, construction, and operation of reclaimed water aquifer storage and recovery systems, which inject reclaimed water into an aquifer for temporary storage followed by recovery and beneficial reuse of the water.***

CURRENT LAW:

Under current law, the injection of reclaimed water to the subsurface or groundwaters of the State by means of a well is prohibited.

BILL ANALYSIS:

The Proposed Committee Substitute for House Bill 643 (PCS) would authorize the issuance of permits for the siting, construction, and operation of reclaimed water aquifer storage and recovery systems. These systems allow for the injection of reclaimed water into an aquifer for temporary storage followed by recovery and beneficial reuse of the water.

The PCS would define the terms "reclaimed water" and "beneficial use" as follows:

- The term "reclaimed water" means tertiary treated wastewater of a quality that will enable the water to be used for a beneficial reuse.
- The term "beneficial reuse" means a use that protects the environment through the efficient allocation and conservation of the potable water, groundwater, and surface water resources of the State.

Permits for reclaimed water aquifer storage and recovery systems must contain certain information and may contain various conditions or limitations. Permit fees are based on the type and capacity of the system.

The bill would also make a number of conforming changes to water quality statutes.

EFFECTIVE DATE:

This act is effective when it becomes law.

House Bill 643
Aquifer Storage of Reclaimed Water

Environment & Natural Resources Committee

Frank Sanders, P.E.

Engineering Director

Onslow Water & Sewer Authority

April 28, 2009

ONWASA

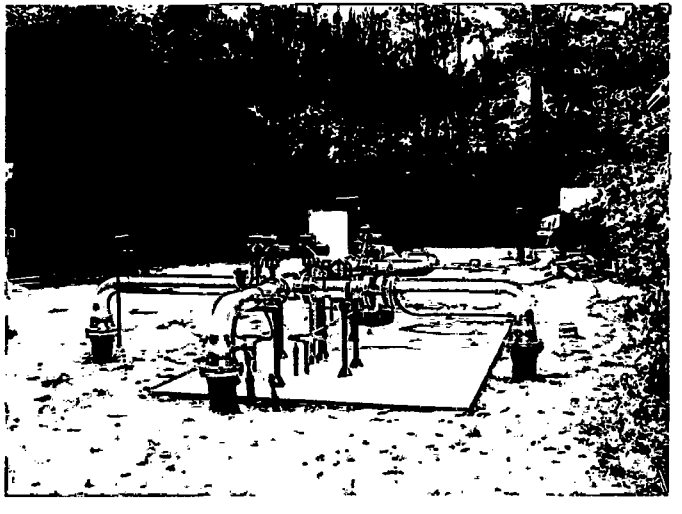
House Bill 643
Aquifer Storage of Reclaimed Water

- What are the benefits of an ASR Well?
- What is an ASR Well?
- What is Reclaimed Water?
- Is it being used anywhere else?
- What steps would be followed to establish an ASR well?
- Should we wait…?

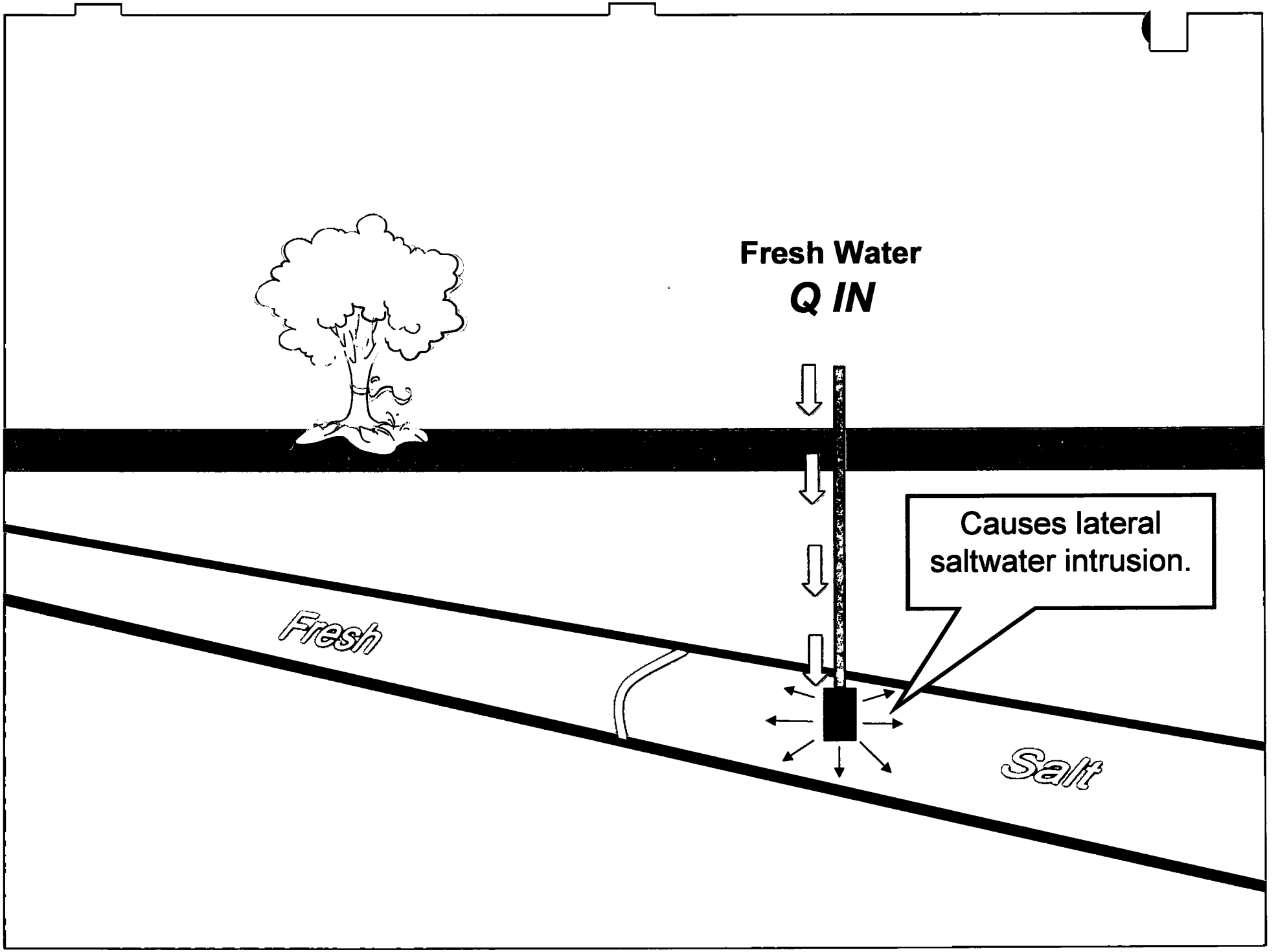
ONWASA

Benefits of ASR Wells

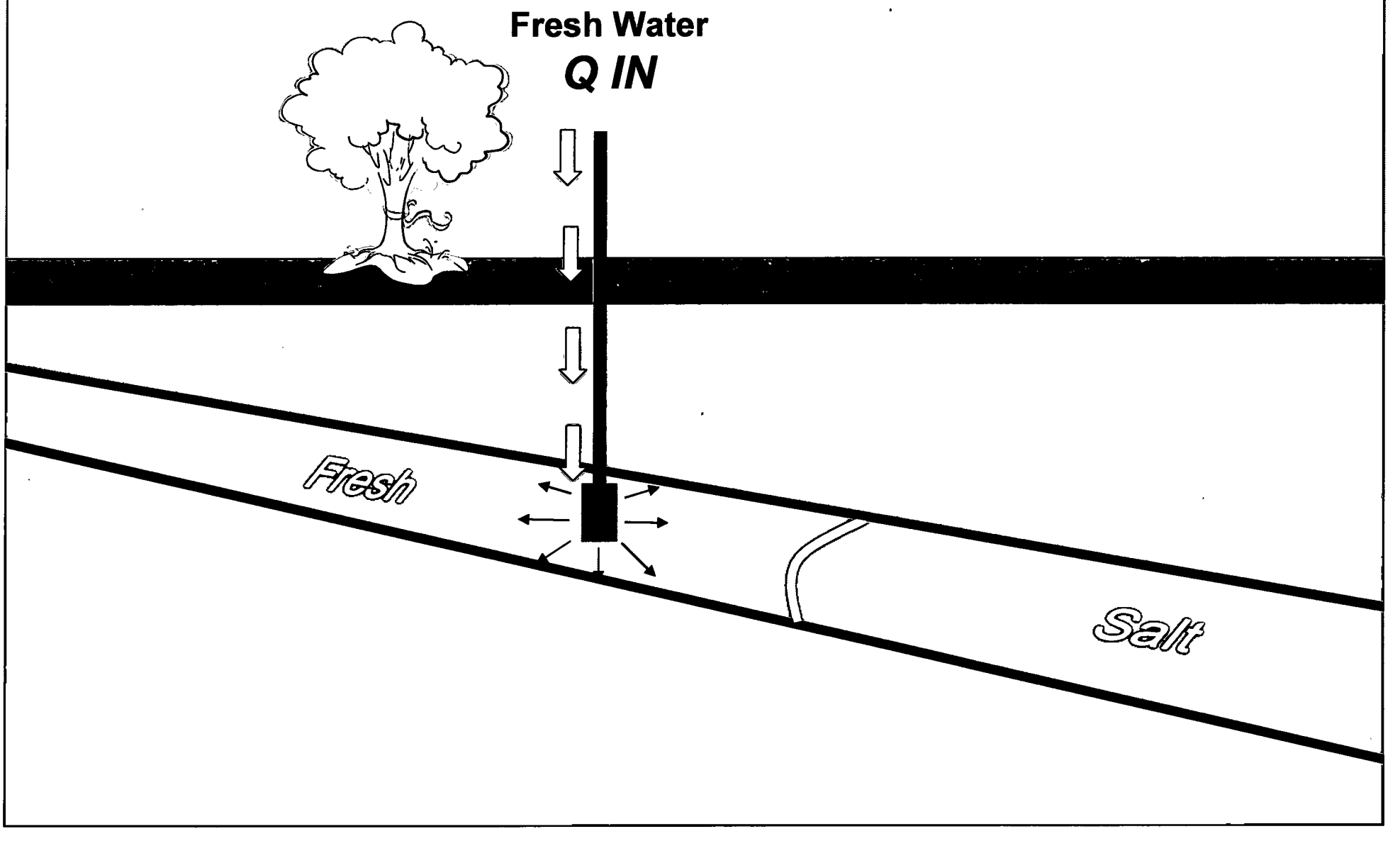
- Store millions of gallons of valuable, highly treated water
- Salt water barrier
- Aquifer recharge
- Reduced demand on aquifers



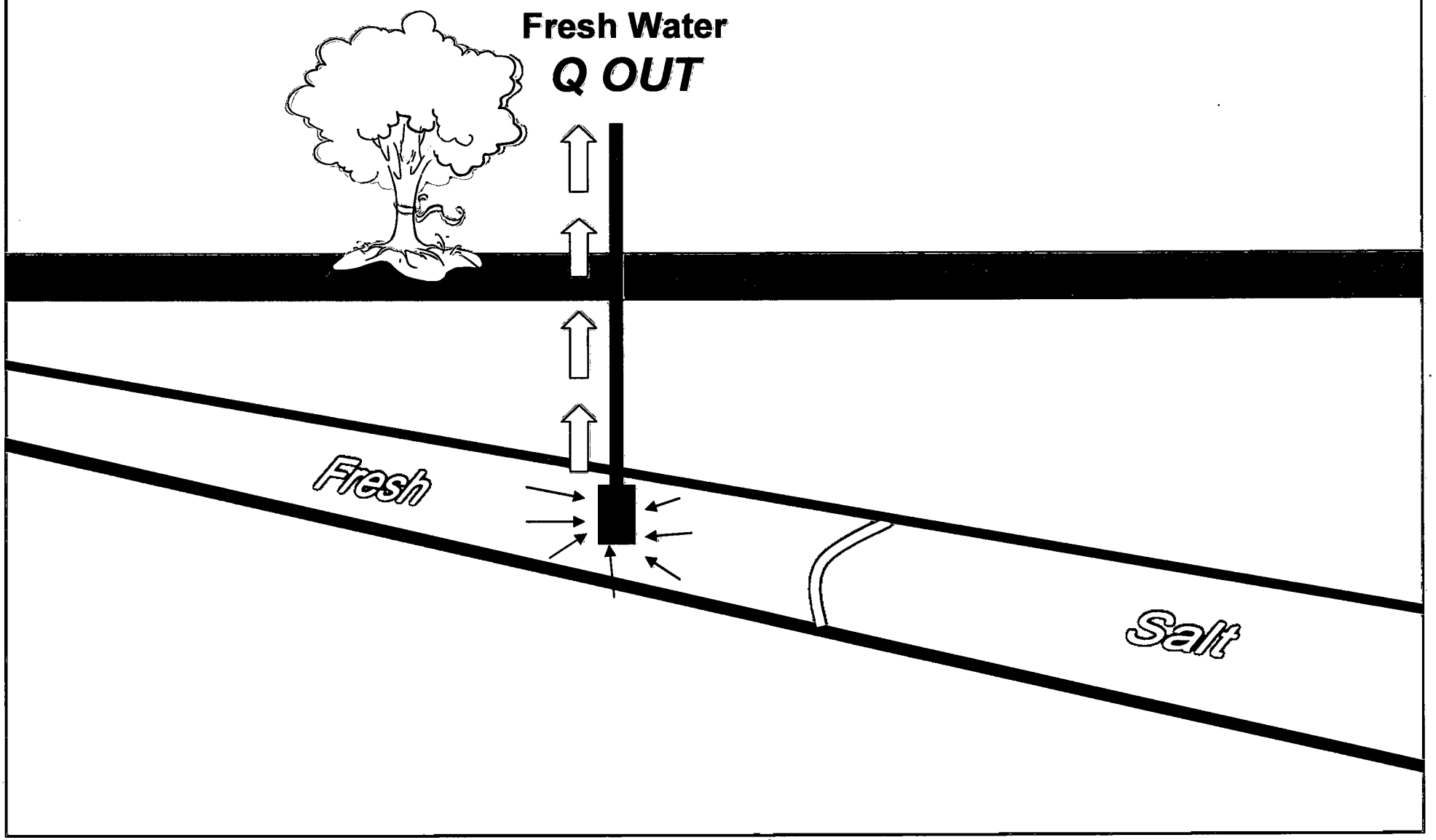
ONWASA


Fresh Water
Q IN
Causes lateral saltwater intrusion.
Fresh
Salt

Aquifer Storage & Recovery (ASR) Well



Aquifer Storage & Recovery (ASR) Well



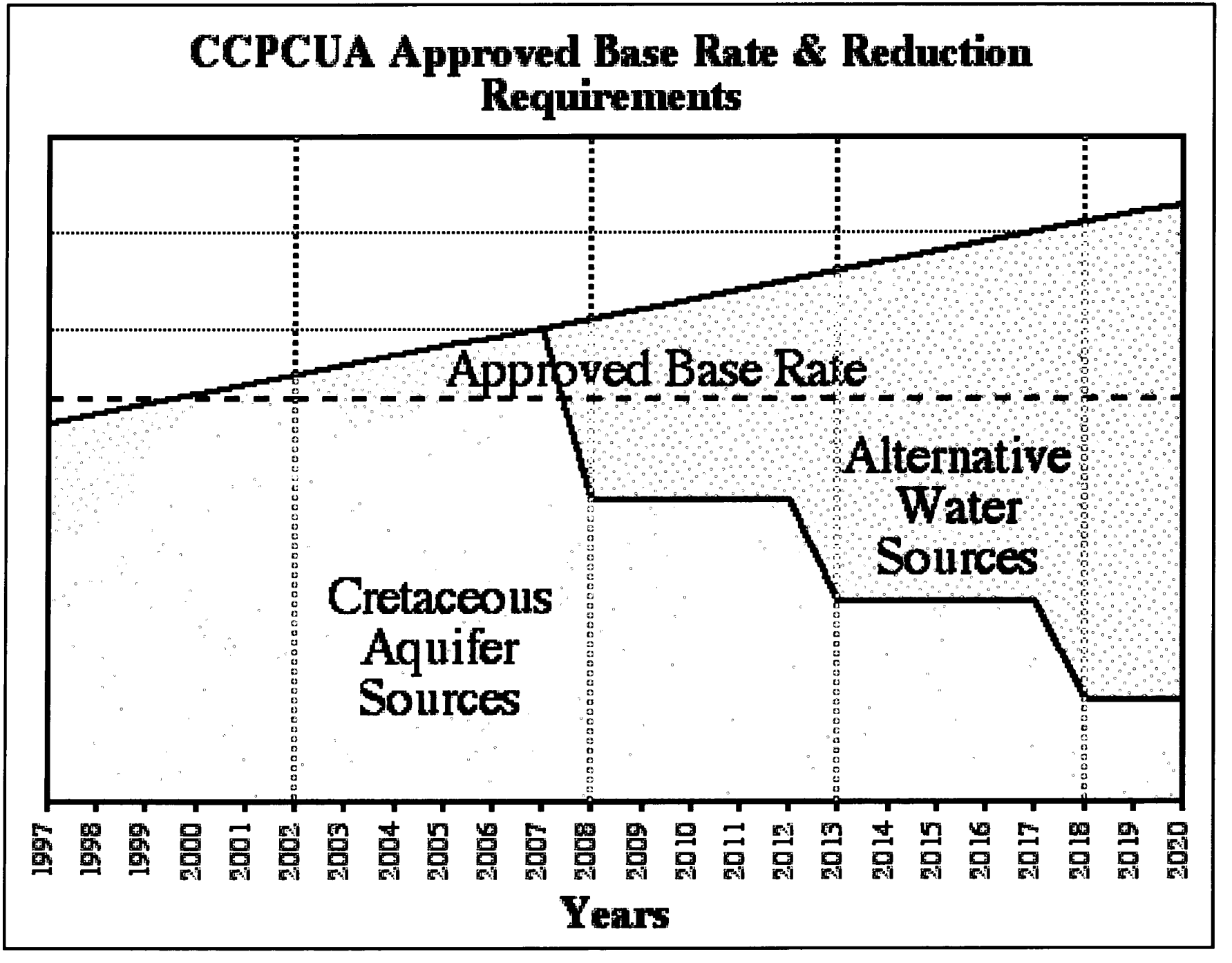
What is Reclaimed Water?

- Water must be used for beneficial purposes.
- Reclaimed water is "tertiary" treated water.
- The EPA's (UIC) program requires that any water injected into the ground or aquifer that contains ambient groundwater with a total dissolved solids concentration less than 10,000 (mg/l) shall have a recharge water quality meeting federal primary drinking water standards. Primary drinking water standards pertain to health.

ONWASA

Coastal NC Water Rules…

1. Don't get saltwater in your well.
2. If you have salt water in your well – you don't have a well.
3. Get out of the Black Creek Aquifer.


CCPCUA Approved Base Rate & Reduction Requirements
Approved Base Rate
Alternative Water Sources
Cretaceous Aquifer Sources
1997
1998
1999
2000
2001
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2003
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2005
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2007
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2010
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2012
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2014
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2016
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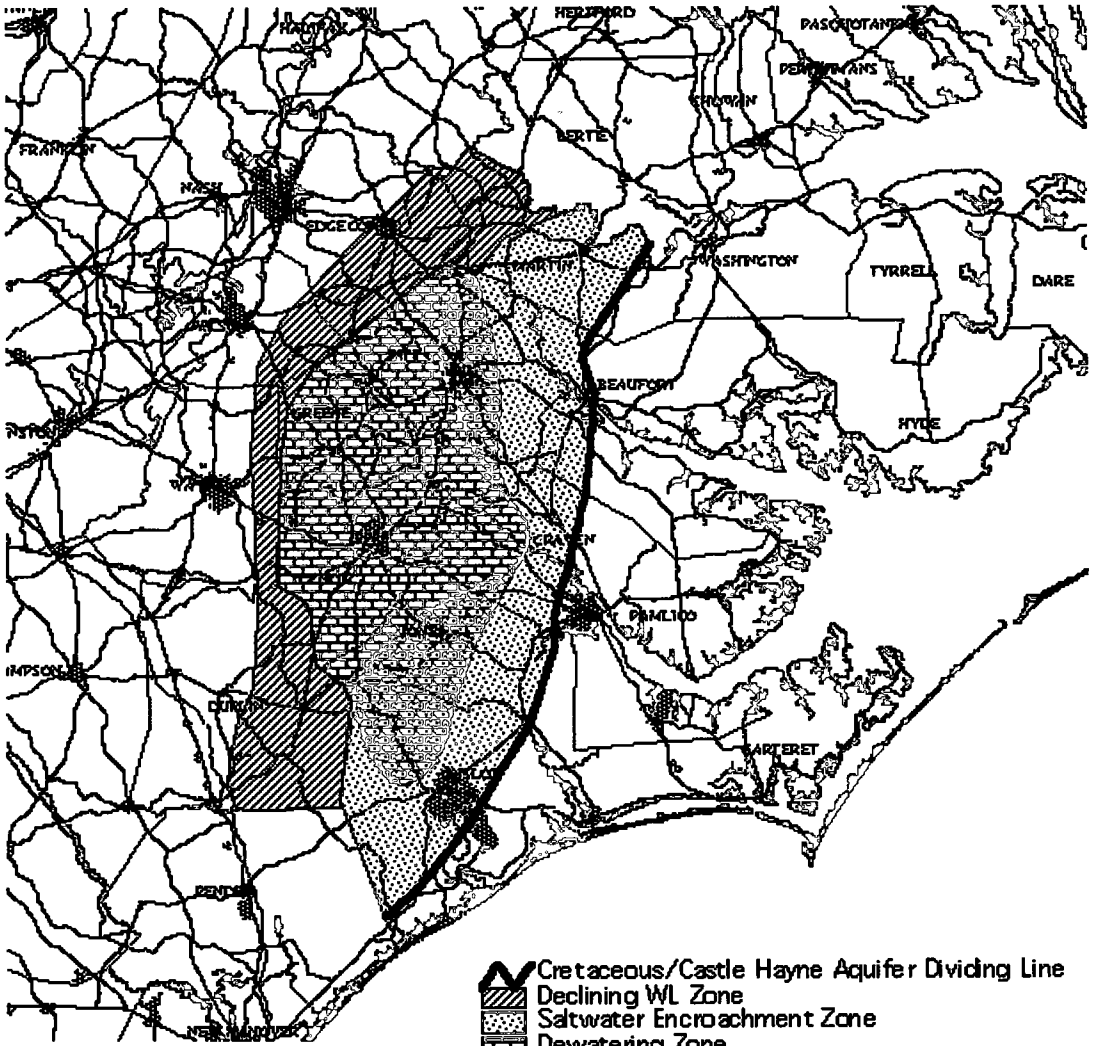
2018
2019
2020
Years

CCPCUA Cretaceous Aquifer Zones



Why an ASR Well?

- Environmental Benefits
  - Reduces stress on aquifers and streams
  - Promotes compliance with CCPCUA Rule
  - Establish salt water intrusion barrier
- Economics
  - Surface Storage Costs 3 to 10 X ASR Storage
  - Uses substantially less land
- Proven Success

ONWASA

Proven Success

ASR for Potable Water

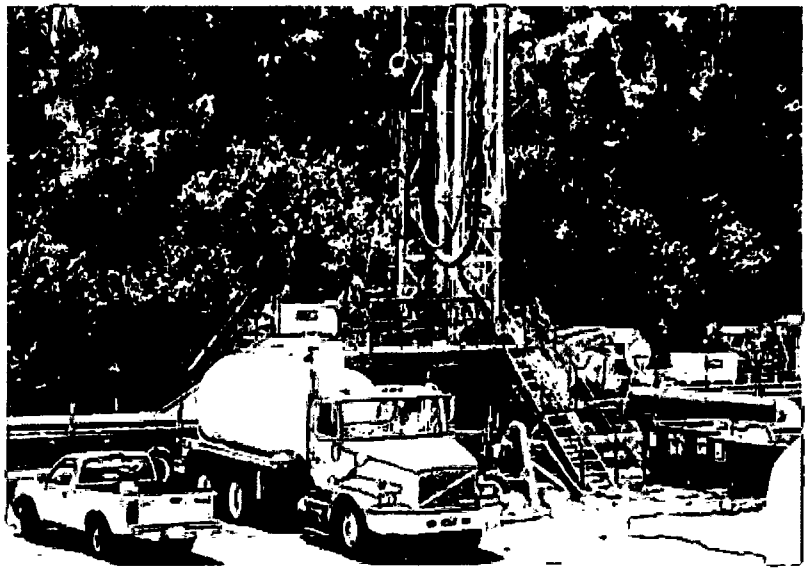
- New Jersey – 18
- Delaware – 1
- Virginia – 1
- South Carolina – 5
- North Carolina – 2 (Planned)

CNWASA

Proven Success

ASR for Reclaimed Water

- Arizona – 5
- Texas – 1
- Florida – 1
- South Carolina – 2 (Planned)
- New Jersey – 1 (Planned)



CNWASA

How Would It Work?

1. All existing wells would be mapped.
2. Test wells would be located and constructed.
3. Monitoring wells constructed.
4. ASR wells used as part of initial testing and operation.
5. Continuous analysis of monitoring wells and ASR wells.
6. Result: ASR Wells store water in winter and provide irrigation water in summer.

ONWASA

Should we wait?

ONWASA

Should we wait?

Sure!

We don't have big demands for water like other states.

We don't have droughts – we have hurricanes.

People can't afford reclaimed water for irrigation.

Our big problem is wastewater – not water. We get our water from groundwater wells.

ONWASA

Should we wait?

Consider this:

ONWASA

Should we wait?

Consider this:

Potable Water ASR Well in Greenville, NC

It has taken 9 years to get a permit.

Field Testing aquifers.

Lab testing aquifers.

Monitoring wells.

Test wells.

ONWASA

Should we wait?

Imagine our water resources in 9 years.

Water demand will increase.

Will we continue our droughts?

Populations will grow.

Reclaimed systems will grow.

ASR Wells can help provide water resources needed for the future.

ONWASA

Jacksonville Daily News

April 20, 2009

Poll shows support storage of wastewater in aquifers

In an unscientific poll of Daily News readers, there appears to be some support for state legislation that would permit the storage of treated wastewater in aquifers.

Legislation to allow the practice, which is now in the General Assembly, is opposed by environmental groups who have doubts about the technology and have concerns about potential for danger to drinking water. Proponents say the science has proved successful elsewhere and the process would lessen the need for more land for spray fields.

In a Daily News online poll at www.jdnews.com, 66 percent of 164 readers say they supported the bill, while 34 percent were against it.

Online Poll

RESULTS

Something in the water

Do you think the idea of injecting treated wastewater into aquifers, as proposed in the state House, will work?

66% Yes.

34% No.

Total votes: 164

To vote in future Daily News polls go to www.jdnews.com

ONWASA

What Can Be Accomplished With ASR Wells

- Beneficial use of reclaimed water.
- Establish salinity barrier.
- Reduce stress on aquifers.
- Minimize use of land for storage facilities.
- Help to minimize the impact of future droughts.
- Treatment to Primary Drinking Standards.
- Conservation of state's water resources.

ONWASA

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 643

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

H643-ASB-3 [v.2]

Comm. Sub. [YES]
Amends Title [YES]
PCS H643-CSSBf-12 [v.3]

Date 4-28 ,2009

Representative Harrison

moves to amend the short title of the bill,
by rewriting it to read:

"Study Disposal of Municipal Wastewater." and

on page 1, line 1 through page 4, line 12,
by rewriting those lines to read:

"A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY METHODS OF DISPOSING OF WASTEWATER AT MUNICIPAL WASTEWATER TREATMENT SYSTEMS.

The General Assembly of North Carolina enacts:

SECTION 1. The Legislative Research Commission may study current methods of disposing of wastewater at municipal wastewater treatment facilities, as defined in G.S. 143-215.6D, and may study the feasibility and desirability of municipal wastewater treatment facilities employing other methods of disposing of wastewater. In its study, the Commission may consider all of the following:

(1) Whether the current practice of land application of wastewater at any municipal wastewater treatment facilities requires too much land to be practicable in the long term.

(2) Whether the current practice of land application of wastewater at municipal wastewater treatment facilities is better suited to certain parts of the State or to areas of certain geological or topographical conditions.

(3) Whether there are any alternative methods of disposing of wastewater at municipal wastewater treatment systems and the costs and benefits of employing any such alternative methods either on a statewide basis or in any specific area of the State.

(4) Subject to Section 2 of this act, any other issues the Commission considers relevant to this topic.

SECTION 2. The study authorized by this act shall not address any issues regarding animal waste management systems, as defined in G.S. 143-215.10B, at swine farms,

as defined in G.S. 106-802, or the land application of wastewater associated with animal waste, as defined in G.S. 143-215.10B.

SECTION 3. The Legislative Research Commission may make an interim report to the 2009 General Assembly, Regular Session 2010, and shall make its final report to the 2011 General Assembly.

SECTION 4. The Legislative Services Officer shall allocate funds appropriated to the General Assembly for the expenditures of the Legislative Services Commission in conducting this study.

SECTION 5. This act becomes effective July 1, 2009.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

HOUSE BILL 239

Short Title:	Disapprove Jordan Lake Rules.	(Public)
Sponsors:	Representatives Allen, Gibson, Bordsen (Primary Sponsors); M. Alexander and Faison.	
Referred to:	Environment and Natural Resources, if favorable, Judiciary I.	

February 23, 2009

A BILL TO BE ENTITLED

AN ACT TO DISAPPROVE THE JORDAN WATER SUPPLY NUTRIENT STRATEGY RULES.

The General Assembly of North Carolina enacts:

SECTION 1. Pursuant to G.S. 150B-21.3(b1), 15A NCAC 02B .0264 (Jordan Water Supply Nutrient Strategy: Agriculture), 15A NCAC 02B .0268 (Jordan Water Supply Nutrient Strategy: Mitigation for Riparian Buffers), 15A NCAC 02B .0269 (Riparian Buffer Mitigation Fees to the NC Ecosystem Enhancement Program), 15A NCAC 02B .0270 (Jordan Water Supply Nutrient Strategy: Wastewater Discharge Requirements), 15A NCAC 02B .0271 (Jordan Water Supply Nutrient Strategy: Stormwater Requirements for State and Federal Entities), 15A NCAC 02B .0272 (Jordan Water Supply Nutrient Strategy: Fertilizer Management), and 15A NCAC 02B .0273 (Jordan Water Supply Nutrient Strategy: Options for Offsetting Nutrient Loads), as adopted by the North Carolina Environmental Management Commission on May 8, 2008, and approved by the Rules Review Commission on October 16, 2008, are disapproved.

SECTION 2. Pursuant to G.S. 150B-21.3(b1), 15A NCAC 02B .0262 (Jordan Water Supply Nutrient Strategy: Purpose and Scope), 15A NCAC 02B .0263 (Jordan Water Supply Nutrient Strategy: Definitions), 15A NCAC 02B .0265 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development), 15A NCAC 02B .0266 (Jordan Water Supply Nutrient Strategy: Stormwater Management for Existing Development), 15A NCAC 02B .0267 (Jordan Water Supply Nutrient Strategy: Protection of Existing Riparian Buffers), and 15A NCAC 02B .0311 (Cape Fear River Basin), as adopted by the North Carolina Environmental Management Commission on May 8, 2008, and approved by the Rules Review Commission on November 20, 2008, are disapproved.

SECTION 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 239
PROPOSED COMMITTEE SUBSTITUTE H239-PCS50641-SB-25

Short Title: Restore Water Quality in Jordan Reservoir. (Public)

Sponsors:

Referred to:

February 23, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR IMPROVEMENTS IN THE MANAGEMENT OF THE JORDAN WATERSHED IN ORDER TO RESTORE WATER QUALITY IN THE JORDAN RESERVOIR.

The General Assembly of North Carolina enacts:

SECTION 1. Definitions. – The following definitions apply to this act and its implementation:

(1) The definitions set out in G.S. 143-212 and G.S. 143-213.

(2) The definitions set out in 15A NCAC 02B .0262 (Jordan Water Supply Nutrient Strategy: Purpose and Scope) and 15A NCAC 02B .0263 (Jordan Water Supply Nutrient Strategy: Definitions).

(3) "Division" means the Division of Water Quality in the Department of Environment and Natural Resources.

(4) "Existing Development Rule 15A NCAC 02B .0266" means 15A NCAC 02B .0266 (Jordan Water Supply Nutrient Strategy: Stormwater Management for Existing Development), adopted by the Commission on May 8, 2008, and approved by the Rules Review Commission on November 20, 2008.

(5) "Wastewater Discharge Rule 15A NCAC 02B .0270" means 15A NCAC 02B .0270 (Jordan Water Supply Nutrient Strategy: Wastewater Discharge Requirements) adopted by the Commission on May 8, 2008, and approved by the Rules Review Commission on October 16, 2008.

SECTION 2.(a) Wastewater Discharge Rule 15A NCAC 02B .0270. – Until the effective date of the revised permanent rule that the Commission is required to adopt pursuant to Section 2(c) of this act, the Commission and the Department shall implement the Wastewater Discharge Rule 15A NCAC 02B .0270, as provided in Section 2(b) of this act.

SECTION 2.(b) Implementation. – Notwithstanding sub-subdivision (c) of subdivision (6) of Wastewater Discharge Rule 15A NCAC 02B .0270, each existing discharger with a permitted flow greater than or equal to 0.1 million gallons per day (MGD) shall limit its total nitrogen discharge to its active individual discharge allocation as defined or modified pursuant to Wastewater Discharge Rule 15A NCAC 02B .0270 no later than calendar year 2016.

SECTION 2.(c) Additional Rule-Making Authority. – The Commission shall adopt a rule to replace Wastewater Discharge Rule 15A NCAC 02B .0270. Notwithstanding

G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 2(b) of this act. Rules adopted pursuant to this section are not subject to G.S. 150B-21.9 through G.S. 150B-21.14. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 3.(a) Existing Development Rule 15A NCAC 02B .0266 Disapproved. – Pursuant to G.S. 150B-21.3(b1), Existing Development Rule 15A NCAC 02B .0266, as adopted by the Environmental Management Commission on May 8, 2008, and approved by the Rules Review Commission on November 20, 2008, is disapproved.

SECTION 3.(b) References in the North Carolina Administrative Code to the rule cited in Section 3(a) of this act shall be deemed to refer to the equivalent provisions of this act.

SECTION 3.(c) Nutrient Monitoring. – The Department shall maintain an ongoing program to monitor water quality in each arm of Jordan Reservoir. The Department shall also accept water quality sampling data from a monitoring program implemented by a local government or nonprofit organization if the data meets quality assurance standards established by the Department. On March 1, 2014, the Department shall report the results of monitoring in each arm of Jordan Reservoir to the Environmental Review Commission. The Department shall submit an updated report under this section every three years thereafter until such time as the lake is no longer impaired by nutrient pollution.

SECTION 3.(d) Control of Nutrient Loading From Existing Development. – The Department shall require implementation of reasonable nutrient load reduction measures for existing development in each arm of the Jordan Reservoir, as provided in this act. The Department shall determine whether nutrient load reduction measures for existing development are necessary in each subwatershed of Jordan Reservoir and require implementation of reasonable nutrient reduction measures in accordance with an adaptive management program as follows:

(1) Stage 1 Adaptive Management Program to Control Nutrient Loading From Existing Development. –

a. Municipalities and counties located in whole or in part in the Jordan watershed shall implement a Stage 1 adaptive management program to control nutrient loading from existing development in the Jordan watershed. The Stage 1 adaptive management program shall meet the requirements set out in 40 C.F.R. § 122.34 as applied by the Department in the NPDES General Permit for municipal separate storm sewer systems in effect on July 1, 2009. The Stage 1 adaptive management program shall include all of the following measures:

1. A public education program to inform the public of the impacts of nutrient loading and measures that can be implemented to reduce nutrient loading from stormwater runoff from existing development.
2. A mapping program that includes major components of the municipal separate storm sewer system, including the location of major outfalls, as defined in 40 Code of Federal Regulations §122.26(b)(5) (July 1, 2008) and the names and location of all waters of the United States that receive discharges from those outfalls, land use types, and location of sanitary sewers.
3. A program to identify and remove illegal discharges.
4. A program to identify opportunities for retrofits and other projects to reduce nutrient loading from existing developed lands.

5. A program to ensure maintenance of best management practices implemented by the local government.

b. The Department shall accept local government implementation of another stormwater program or programs meeting the standards set out in this section as satisfying one or more of the requirements set forth in sub-subdivision a. of this subdivision. The local government shall provide technical information sufficient to demonstrate the adequacy of the alternative program or program elements.

c. A Stage 1 adaptive management program to control nutrient loading from existing development shall be implemented as follows:

1. No later than December 31, 2009, each local government shall submit its Stage 1 adaptive management program to the Commission for review and approval.

2. Within six months following submission of a Stage 1 adaptive management program, the Division shall recommend that the Commission approve or disapprove the program. The Commission shall either approve the program or require changes based on the standards set out in sub-subdivision a. of this subdivision. If the Commission requires changes, the local government shall submit revisions responding to the required changes within two months and the Department shall provide follow-up recommendations to the Commission within two months after receiving revisions.

3. Within three months following Commission approval of a Stage 1 adaptive management program, the local government shall begin implementation of the program. Each local government shall report annually to the Department on implementation of its program.

(2) Stage 2 Adaptive Management Program to Control Nutrient Loading From Existing Development. –

a. If the March 1, 2017, report or any subsequent monitoring report for an arm of Jordan Reservoir required under Section 3(c) of this act shows that nutrient-related water quality standards are not being achieved, a municipality or county located in whole or in part in the subwatershed of that arm of Jordan Reservoir shall develop and implement a Stage 2 adaptive management program to control nutrient loading from existing development in the Jordan watershed, as provided in this act. The Department shall defer development and implementation of Stage 2 adaptive management programs to control nutrient loading from existing development required in an arm of Jordan Reservoir by this subdivision if it determines that additional reductions in nutrient loading from existing development in that arm will not be necessary to achieve nutrient-related water quality standards. In making this determination, the Department shall consider the anticipated effect of measures implemented or scheduled to be implemented to reduce nutrient loading from sources in the arm other than existing development. If any subsequent monitoring report for an arm of Jordan Reservoir required under Section 3(c) of this act shows that nutrient-related water quality standards have not been achieved, the Department shall notify the municipalities and counties located in whole or in part in the subwatershed of that arm of Jordan

Reservoir and the municipalities and counties shall develop and implement a Stage 2 adaptive management program as provided in this subdivision.

b. The Department shall establish a load reduction goal for existing development for each municipality and county required to implement a Stage 2 adaptive management program to control nutrient loading from existing development. The load reduction goal shall be designed to achieve an eight percent (8%) reduction in nitrogen loading of surface water from existing development and a five percent (5%) reduction in phosphorus loading of surface water from existing development relative to the baseline period 1997 through 2001 and reaching Jordan Reservoir from existing developed lands within the municipal limits or county boundary. The baseline load shall be calculated by applying the Tar-Pamlico Nutrient Export Calculation Worksheet, Piedmont Version, dated October 2004, to acreages of different types of existing development within the local government planning jurisdiction during the baseline period. The baseline load may also be calculated using an equivalent or more accurate method acceptable to the Division and recommended by the Scientific Advisory Board established pursuant to Section 4(a) of this act. The baseline load for a municipality or county shall not include nutrient loading from lands under State or federal control or lands in agriculture or forestry. The load reduction goal shall be adjusted to account for nutrient loading increases from lands developed subsequent to the baseline period but prior to implementation of new development stormwater programs.

c. Based on findings under sub-subdivisions a. and b. of this subdivision, the Department shall notify the local governments in each subwatershed that either:

1. Implementation of a Stage 2 adaptive management program to control nutrient loading from existing development will be necessary to achieve water quality standards in an arm of the reservoir and direct the municipalities and counties in the subwatershed to develop a load reduction program in compliance with this section.
2. Implementation of a Stage 2 adaptive management program to control nutrient loading from existing development is not necessary at that time but will be reevaluated in three years based on the most recent water quality monitoring information.

d. A local government receiving notice of the requirement to develop and implement a Stage 2 adaptive management program to control nutrient loading from existing development under this section shall not be required to submit a program if the local government demonstrates that it has already achieved the reductions in nutrient loadings required by sub-subdivision b. of this subdivision.

e. Within six months after receiving notice to develop and implement a Stage 2 adaptive management program to control nutrient loading from existing development, each local government shall submit to the Commission a program that is designed to achieve the reductions in nutrient loadings established by the Division pursuant to

sub-subdivision b. of this subdivision. A local government program may include nutrient management strategies that are not included in the model program developed pursuant to Section 3(c) of this act in addition to or in place of any component of the model program. In addition, a local government may satisfy the requirements of this subdivision through reductions in nutrient loadings from other sources in the same subwatershed to the extent those reductions go beyond measures otherwise required by statute or rule. A local government may also work with other local governments within the same subwatershed to collectively meet the required reductions in nutrient loadings from existing development within their combined jurisdictions. Any credit for reductions achieved or obtained outside of a local government's planning jurisdiction shall be adjusted based on transport factors established by the Department document Nitrogen and Phosphorus Delivery from Small Watersheds to Jordan Lake, dated June 30, 2002.

f. Within six months following submission of a local government's Stage 2 adaptive management program to control nutrient loading from existing development, the Department shall recommend that the Commission approve or disapprove the program. The Commission shall approve the program if it meets the requirements of this subdivision, unless the Commission finds that the local government can, through the implementation of reasonable and cost-effective measures not included in the proposed program, meet the reductions in nutrient loading established by the Department pursuant to sub-subdivision b. of this subdivision by a date earlier than that proposed by the local government. If the Commission finds that there are additional or alternative reasonable and cost-effective measures, the Commission may require the local government to modify its proposed program to include such measures to achieve the required reductions by the earlier date. If the Commission requires such modifications, the local government shall submit a modified program within two months. The Department shall recommend that the Commission approve or disapprove the modified program within three months after receiving the local government's modified program. In determining whether additional or alternative load reduction measures are reasonable and cost effective, the Commission shall consider factors including, but not limited to, the increase in the per capita cost of a local government's stormwater management program that would be required to implement such measures and the cost per pound of nitrogen and phosphorus removed by such measures. The Commission shall not require additional or alternative measures that would require a local government to:

1. Install or require installation of a new stormwater collection system in an area of existing development unless the area is being redeveloped.
2. Acquire developed private property.
3. Reduce or require the reduction of impervious surfaces within an area of existing development unless the area is being redeveloped.

g. Within three months after the Commission's approval of a Stage 2 adaptive management program to control nutrient loading from existing development, the local government shall complete adoption and begin implementation of its program.

h. Each local government implementing a Stage 2 adaptive management program to control nutrient loading from existing development shall submit an annual report to the Division summarizing its activities in implementing its program.

i. If at any time the Department finds, based on water quality monitoring, that an arm of the Jordan Reservoir has achieved compliance with water quality standards, the Department shall notify the local governments in the subwatershed. Subject to the approval of the Commission, a local government may modify its Stage 2 adaptive management program to control nutrient loading from existing development to maintain only those measures necessary to prevent increases in nutrient loading from existing development.

SECTION 3.(e) Model Stage 2 Adaptive Management Program to Control Nutrient Loading From Existing Development. – No later than December 31, 2014, the Department shall submit a model Stage 2 adaptive management program to control nutrient loading from existing development to the Commission for approval. The model program shall identify specific load reduction practices and programs and reduction credits associated with each practice or program. In developing the model program, the Department shall consider the findings and recommendations of the Scientific Advisory Board established pursuant to Section 4(a) of this act and comments submitted by municipalities and counties identified in 15A NCAC 02B .0262(7) (Jordan Water Supply Nutrient Strategy: Purpose and Scope). The Commission shall review the model program and either approve the program or return it to the Department with requested changes. The Department shall revise the model program to address changes requested by the Commission. The Commission shall approve a final model program no later than December 31, 2015.

SECTION 3.(f) Additional Measures to Reduce Nitrogen Loading From Existing Development in the Upper New Hope Creek Arm of the Jordan Reservoir. –

(1) If the March 1, 2026, report or any subsequent monitoring report for the Upper New Hope Creek Arm of Jordan Reservoir shows that nutrient-related water quality standards are not being achieved, a municipality or county located in whole or in part in the Upper New Hope Creek Subwatershed shall modify its Stage 2 adaptive management program to control nutrient loading from existing development to achieve additional reductions in nitrogen loading from existing development. The modified Stage 2 adaptive management program shall be designed to achieve a total reduction in nitrogen loading from existing development of thirty-five percent (35%) relative to the baseline period 1997 through 2001. The Department shall notify local governments of the requirement to submit a modified Stage 2 adaptive management program. Submission, review and approval, and implementation of a modified Stage 2 adaptive management program shall follow the process, timeline, and standards set out in sub-subdivisions e. through g. of subdivision (2) of Section 3(d) of this act.

(2) At the request of one or more local governments located in whole or in part in the Upper New Hope Creek Subwatershed, the Commission may initiate alternative regulatory actions authorized by State or federal law, including, but not limited to, the granting of a variance and the establishment of

alternative water quality standards for the Upper New Hope Creek Arm of Jordan Reservoir.

SECTION 3.(g) Enforcement. – The Department shall enforce the provisions of this act as provided in G.S. 143-215.6A, 143-215.6B, and 143-215.6C.

SECTION 3.(h) Collective Compliance. – Local governments that are subject to regulation under this act may establish collective programs to comply with the requirements of this act.

SECTION 3.(i) Report. – The Division shall report annually to the Commission regarding the implementation of adaptive management programs to control nutrient loading from existing development in the Jordan watershed.

SECTION 3.(j) Additional Rule-Making Authority. – The Commission shall adopt a rule to replace Sections 3(c) through 3(i) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Sections 3(c) through 3(f) of this act. Rules adopted pursuant to this section are not subject to G.S. 150B-21.9 through G.S. 150B-21.14. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.(a) Scientific Advisory Board for Nutrient-Impaired Waters Established. – No later than July 1, 2010, the Secretary shall establish a Nutrient Sensitive Waters Scientific Advisory Board. The Scientific Advisory Board shall consist of no fewer than five and no more than 10 members with the following expertise or experience:

(1) Representatives of one or more local governments in the Jordan Reservoir watershed. Local government representatives shall have experience in stormwater management, flood control, or management of a water or wastewater utility.

(2) One member with at least 10 years of professional or academic experience relevant to the management of nutrients in impaired water bodies and possessing a graduate degree in a related scientific discipline, such as aquatic science, biology, chemistry, geology, hydrology, environmental science, engineering, economics, or limnology.

(3) One professional engineer with expertise in stormwater management, hydrology, or flood control.

(4) One representative of the Department of Transportation with expertise in stormwater management.

(5) One representative of a conservation organization with expertise in stormwater management, urban landscape design, nutrient reduction, or water quality.

SECTION 4.(b) Duties. – No later than July 1, 2012, the Scientific Advisory Board shall do all of the following:

(1) Identify management strategies that can be used by local governments to reduce nutrient loading from existing development.

(2) Evaluate the feasibility, costs, and benefits of implementing the identified management strategies.

(3) Develop an accounting system for assignment of nutrient reduction credits for the identified management strategies.

(4) Identify the need for any improvements or refinements to modeling and other analytical tools used to evaluate water quality in nutrient-impaired waters and nutrient management strategies.

SECTION 4.(c) Report; Miscellaneous Provisions. – The Scientific Advisory Board shall also advise the Secretary on any other issue related to management and restoration of nutrient-impaired water bodies. The Scientific Advisory Board shall submit an annual report

to the Secretary no later than July 1 of each year concerning its activities, findings, and recommendations. Members of the Scientific Advisory Board shall be reimbursed for reasonable travel expenses to attend meetings convened by the Department for the purposes set out in this section.

SECTION 5. No Preemption. – A local government may adopt and implement a stormwater management program that contains provisions that are more restrictive than the standards set forth in Sections 2 and 3 of this act or in any rules concerning stormwater management in the Jordan watershed adopted by the Commission. This section shall not be construed to authorize a local government to impose stormwater management requirements on lands in agriculture or forestry.

SECTION 6. Construction of Act. –

(1) Except as specifically provided in Sections 2(c) and 3(j) of this act, nothing in this act shall be construed to limit, expand, or otherwise alter the authority of the Commission or any unit of local government.

(2) This act shall not be construed to affect any delegation of any power or duty by the Commission to the Department or subunit of the Department.

SECTION 7. Note to Revisor of Statutes. – Notwithstanding G.S. 164-10, the Revisor of Statutes shall not codify any of the provisions of this act. The Revisor of Statutes shall set out the text of Section 2 of this act as a note to G.S. 143-215.1 and may make notes concerning this act to other sections of the General Statutes as the Revisor of Statutes deems appropriate. The Revisor of Statutes shall set out the text of Section 3 of this act as a note to G.S. 143-214.7 and may make notes concerning this act to other sections of the General Statutes as the Revisor of Statutes deems appropriate.

SECTION 8. Effective Date. – This act is effective when it becomes law.

HOUSE BILL 239:
Disapprove Jordan Lake Rules

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Judiciary I	**Date:**	April 28, 2009
Introduced by:	Representatives Allen, Gibson, Bordsen	**Prepared by:**	Jeff Hudson
Analysis of:	PCS to First Edition H239-PCS10888-SB-5		Committee Counsel

SUMMARY: The Proposed Committee Substitute for House Bill 239 would establish a calendar year 2016 compliance date for the Jordan Water Supply Nutrient Strategy for Wastewater Discharge Requirements rule; disapprove the Jordan Water Supply Nutrient Strategy for Stormwater Management of Existing Development rule; and provide an alternative process for managing stormwater from existing development in the Jordan watershed.

[As introduced, this bill was identical to S166, as introduced by Sen. Foriest, which is currently in Rules and Operations of the Senate.]

BACKGROUND:

Jordan Lake is located in the piedmont region of central North Carolina in the upper Cape Fear River Basin. Its watershed contains large portions of the urbanized Triangle and Triad regions as well as significant agricultural lands. The Lake was created in 1983 for the purposes of flood control, downstream water quality, fish and wildlife conservation, recreation, and water supply.

Jordan Lake has been consistently rated as eutrophic or hyper-eutrophic since its impoundment in 1983. "Eutrophic" is an over-abundance of nutrients in the lake, primarily nitrogen and phosphorus, which may result in algal blooms and poor water quality. Nutrients make their way to the lake from sources such as wastewater discharges, rainfall runoff from agriculture, and stormwater runoff from new and existing developed lands throughout the entire Jordan watershed. Excessive nutrient inputs drive excessive growth of microscopic algae, which imparts a greenish, murky appearance to the water, causes taste and odor problems in potable water, and robs the water of oxygen, stressing or killing fish and other aquatic life. While not necessarily making the lake unfit for fishing, swimming, or drinking uses, excess nutrients are impacting these uses, and undesirable algae are present in the lake.

The State began taking actions to address the nutrient problems early in the lake's history. The Environmental Management Commission (EMC) designated the Reservoir a Nutrient Sensitive Water (NSW) the year of its impoundment, and imposed phosphorus limits on wastewater dischargers. The lake did not respond to these controls, and in 2002, the EMC determined that the Upper New Hope arm was impaired after it exceeded the State's chlorophyll-a standard. The rest of the lake exceeded the standard in 2006. (Chlorophyll-a is used as an indicator of excess nutrients in waterbodies.)

Several pieces of legislation directed the EMC to address Jordan Lake's impairment. The Clean Water Responsibility Act of 1997 required the EMC to establish improvement goals for nutrient-impaired waters, and to develop and implement management plans that entail sharing of responsibility for reducing nutrient inputs to these waters between point sources and nonpoint sources in a fair, reasonable, and proportionate manner. Session Law 2005-190 directed the EMC to adopt permanent rules to establish and implement nutrient management strategies to protect drinking water supply reservoirs. In addition, requirements of the federal Clean Water Act were set in motion when the lake became impaired, including the need to set load reduction limits for point and nonpoint sources and to enforce discharger limits.

To comply with the Clean Water Responsibility Act of 1997, Haw wastewater dischargers developed a reservoir model in the late 1990s to estimate the lake's nutrient reduction needs. The EMC approved a reservoir model in 2002. Beginning in 2003, the Division of Water Quality (Division) in the Department of Environment and Natural Resources (DENR) conducted a 1½-year stakeholder meeting process, facilitated by the Triangle J Council of Governments, to seek consensus on nutrient loading goals, discharge allocation methods, and a conceptual nonpoint source strategy. In 2005, the Division held public meetings and solicited public comments on a rules framework. The Division then drafted a set of rules, and held technical stakeholder meetings through 2006 that resulted in rule refinements.

The formal rule-making process began when the rules were published on June 15, 2007, and a 90-day public comment period followed. This included three public hearings held in different locations in the watershed. Following the comment period, five Hearing Officers, all members of the EMC, deliberated for eight months over changes needed to address the comments received. The EMC adopted a revised set of rules in May, 2008.

In June 2008, the rules were brought before the Rules Review Commission (RRC). The RRC reviewed and approved the rules over the course of five meetings, with the last approvals on November 20, 2008. A large number of technical changes were made to the rules in response to objections from the RRC, but the content of the rules remained essentially unchanged.

The RRC received a sufficient number of objection letters to the rules to necessitate their review by the General Assembly during its 2009 Regular Session. Several disapproval bills were introduced, including House Bill 239, introduced by Representatives Allen, Gibson, and Bordsen. If one of the disapproval bills becomes law as introduced, the entire set of rules will not become effective. If no action is taken by the General Assembly on a disapproval bill, the rules will be become effective upon adjournment of the 2009 Regular Session. *(Background information excerpted from the website of the Division at: http://h2o.enr.state.nc.us/nps/JordanNutrientStrategy.htm.)*

BILL ANALYSIS:

Jordan Reservoir and Watershed

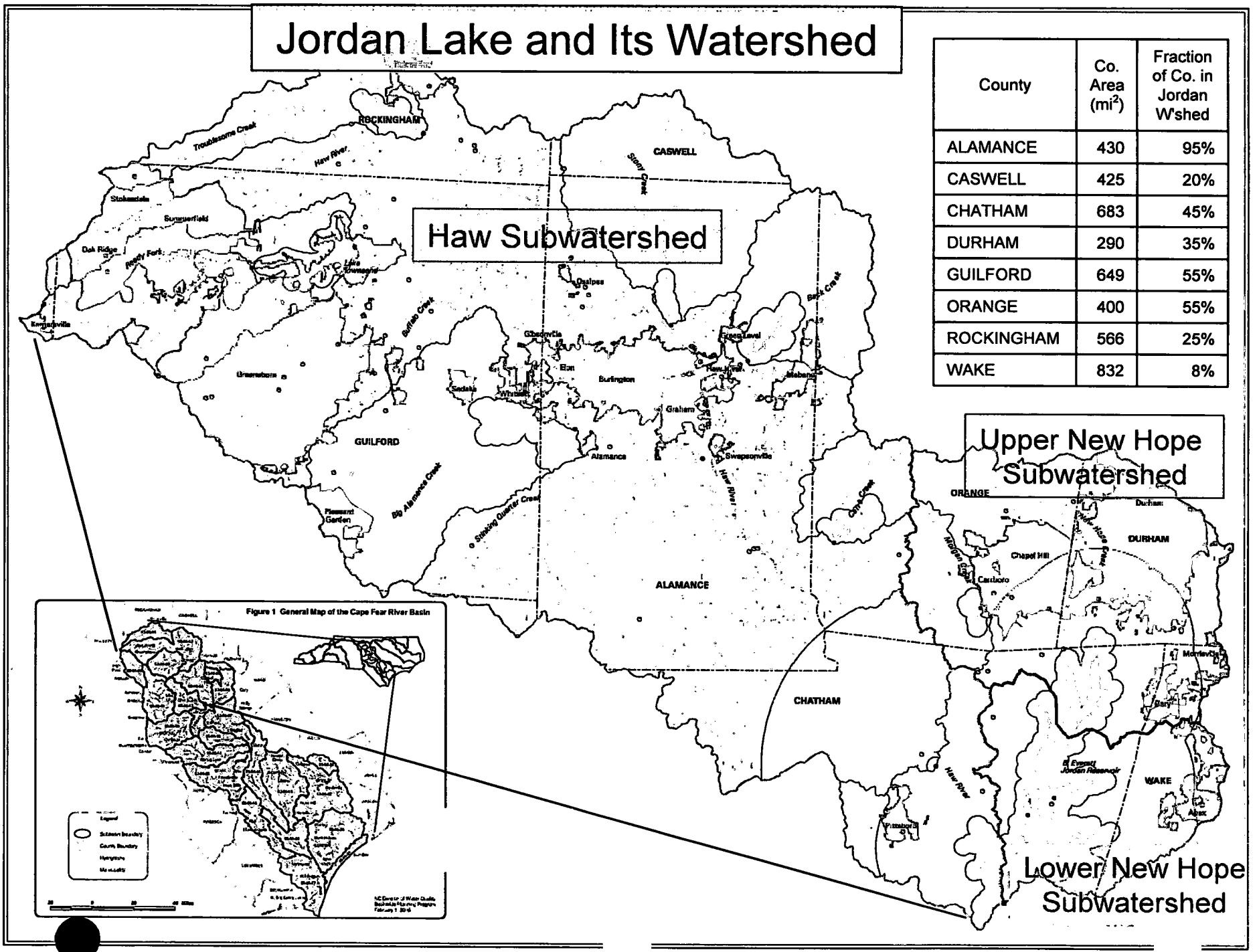
The watershed that drains into Jordan reservoir includes portions of the municipalities of Alamance, Apex, Burlington, Carrboro, Cary, Chapel Hill, Durham, Elon, Gibsonville, Graham, Green Level, Greensboro, Haw River, Kernersville, Mebane, Morrisville, Oak Ridge, Ossipee, Pittsboro, Pleasant Garden, Reidsville, Sedalia, Stokesdale, Summerfield, Wilsonville, and Whitsett and the Counties of Alamance, Caswell, Chatham, Durham, Guilford, Orange, Rockingham, and Wake.

Please refer to the following maps for more information about the Jordan Reservoir and its watershed:

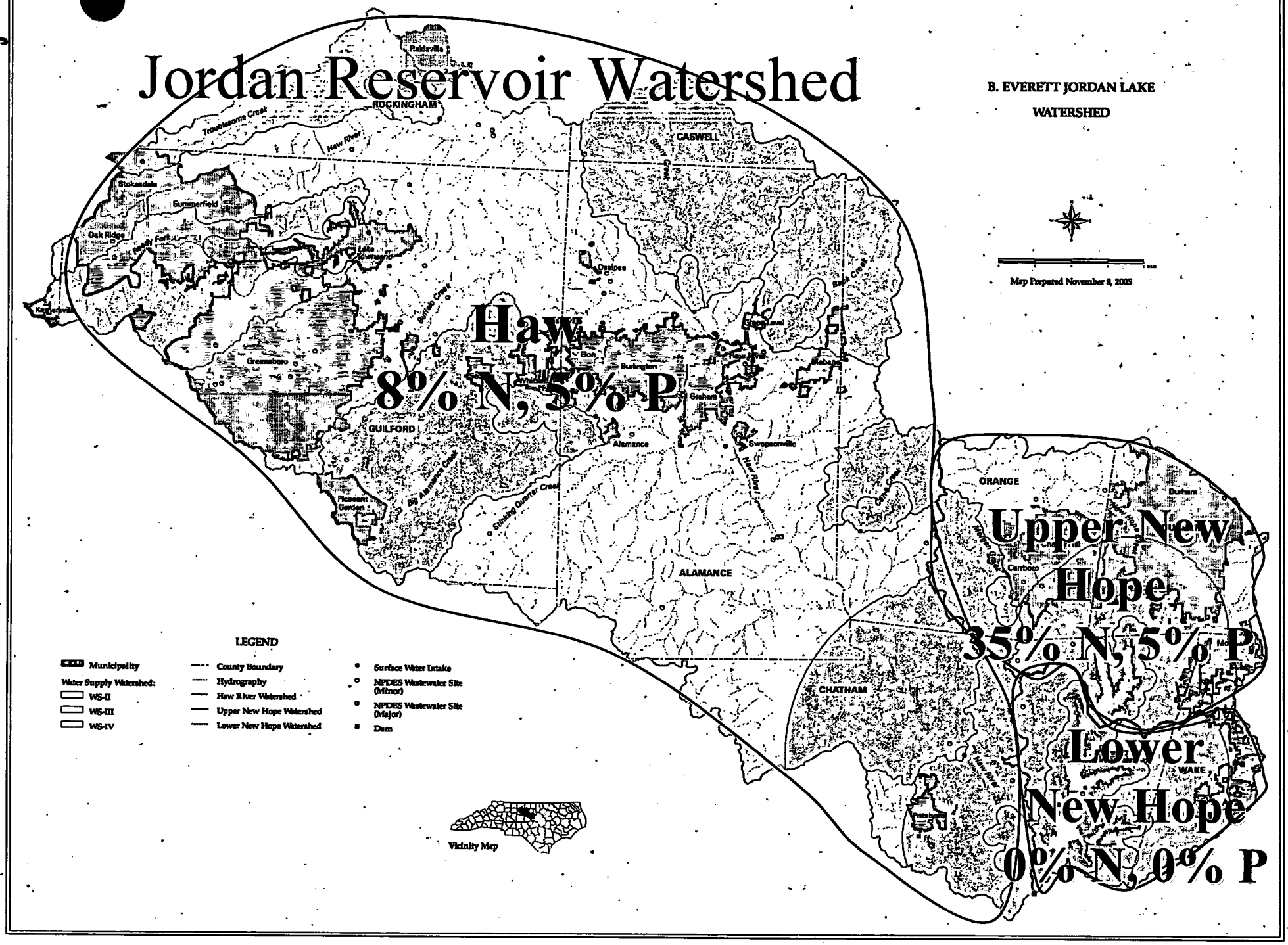
- The map entitled "Jordan Lake and Its Watershed" shows the reservoir, its watersheds and subwatersheds, the municipalities and counties that lie in whole or in part in the watershed, and the area and percentage of each county's inclusion in the watershed.
- The map entitled "Jordan Reservoir Watershed" more clearly delineates the subwatersheds and includes the percentage reductions of nitrogen and phosphorus loading from existing development required by NCAC 02B .0270 (Jordan Water Supply Nutrient Strategy: Wastewater Discharge Requirements), adopted by the EMC on May 8, 2008, and approved by the RRC on October 16, 2008
- The third, untitled map more clearly shows the reservoir itself and the extent of its three arms.

(Maps from the website of the Division at: http://h2o.enr.state.nc.us/nps/JordanNutrientStrategy.htm.)

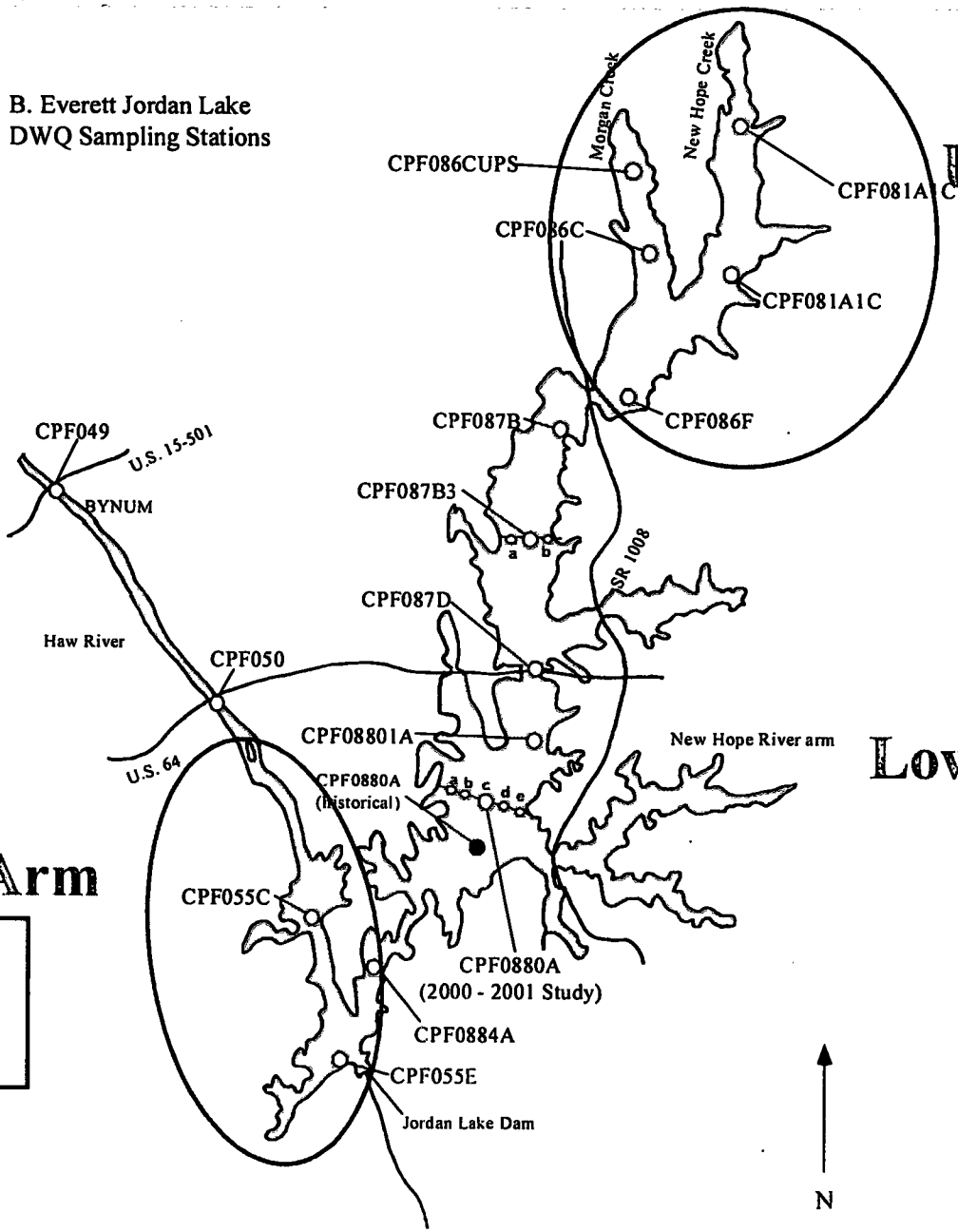
Jordan Lake and Its Watershed



County	Co. Area (mi^2)	Fraction of Co. in Jordan W'shed
ALAMANCE	430	95%
CASWELL	425	20%
CHATHAM	683	45%
DURHAM	290	35%
GUILFORD	649	55%
ORANGE	400	55%
ROCKINGHAM	566	25%
WAKE	832	8%


Jordan Reservoir Watershed
B. EVERETT JORDAN LAKE
WATERSHED
Map Prepared November 8, 2005
Haw
8% N, 5% P
Upper New
Hope
35% N, 5% P
Lower
New Hope
0% N, 0% P
ROCKINGHAM
CASWELL
GUILFORD
ALAMANCE
ORANGE
CHATHAM
WAKE
Durham
Reidsville
Troublesome Creek
Haw River
Stokesdale
Summerfield
Oak Ridge
Lake Townsend
Lake Brandt
Lake Higgins
Osceola
Buffalo Creek
Greensboro
Burlington
Elon
Graham
Alamance
Swepsonville
Stinking Quarter Creek
Alamance Creek
Pleasant Garden
Cane Creek
Carrboro
Pittsboro
LEGEND
Municipality
Water Supply Watershed:
WS-II
WS-III
WS-IV
County Boundary
Hydrography
Haw River Watershed
Upper New Hope Watershed
Lower New Hope Watershed
Surface Water Intake
NPDES Wastewater Site (Minor)
NPDES Wastewater Site (Major)
Dam
Vicinity Map

B. Everett Jordan Lake
DWQ Sampling Stations



Upper New Hope Arm

35% N
5% P

Lower New Hope Arm

0% N
0% P

Haw River Arm

8% N
5% P

O 2000 - 2001 DWQ Stations

ompliance Date for Wastewater Discharge Rule

Under 15A NCAC 02B .0270 (Jordan Water Supply Nutrient Strategy: Wastewater Discharge Requirements), adopted by the EMC on May 8, 2008, and approved by the RRC on October 16, 2008 (Wastewater Discharge Rule), each existing wastewater discharger with a permitted flow of greater than or equal to one hundred thousand (100,000) gallons per day would have to limit its total nitrogen discharge as provided under the rule no later than calendar year 2014.

The Proposed Committee Substitute for House Bill 239 (PCS) would establish a calendar year 2016 compliance date for the Wastewater Discharge Rule. The PCS would also direct the EMC to adopt a rule to replace the Wastewater Discharge Rule that is substantively identical to the requirements of the PCS.

Existing Development Rule

Under 15A NCAC 02B .0266 (Jordan Water Supply Nutrient Strategy: Stormwater Management for Existing Development), adopted by the EMC on May 8, 2008, and approved by the RRC on November 20, 2008 (Existing Development Rule), and its accompanying rules, the following nutrient load reductions must be achieved for each arm of the Jordan Reservoir and its subwatershed.

	Upper New Hope Arm	Lower New Hope Arm	Haw Arm
Nitrogen	35% Reduction	0% Reduction	8% Reduction
Phosphorus	5% Reduction	0% Reduction	5% Reduction

Each local government in the Jordan watershed would have to identify the nutrient load reductions from existing development that it would need to achieve to satisfy the required nutrient reduction goals for its subwatershed. Local governments would have to develop long-range plans to implement nutrient load reductions from existing development, including overall compliance timeframes. These plans would be subject to EMC review and approval.

The Proposed Committee Substitute for House Bill 239 (PCS) would disapprove the Existing Development Rule and establish an alternative, phased-in process for achieving nutrient loading reductions from existing development as follows.

Nutrient Monitoring

The PCS would require DENR to maintain an ongoing program to monitor water quality in each arm of Jordan Reservoir. On March 1, 2014 and every three years thereafter, DENR would report the results of monitoring in each arm of Jordan Reservoir to the Environmental Review Commission (ERC).

Stage 1 Program to Control Nutrient Loading from Existing Development

The PCS would require municipalities and counties located in whole or in part in the Jordan watershed to implement a Stage 1 adaptive management program to control nutrient loading from existing development (Stage 1 program) in the Jordan watershed. The Stage 1 program would include all of the following measures:

A public education program to inform the public of the impacts of nutrient loading and measures that can be implemented to reduce nutrient loading from stormwater runoff from existing development.

- A mapping program that includes major components of the municipal separate storm sewer system, including the location of all outfalls and the names and location of all waters of the United States that receive discharges from those outfalls, land use types, and location of sanitary sewers.
- A program to identify and remove illegal discharges.
- A program to identify opportunities for retrofits and other projects to reduce nutrient loading from existing developed lands.
- A program to ensure maintenance of best management practices implemented by the local government.

A Stage 1 program would be subject to approval by the EMC.

Stage 2 Program to Control Nutrient Loading from Existing Development

If the March 1, 2017, or any subsequent monitoring report for an arm of Jordan Reservoir does not show measurable reductions in nitrogen and phosphorus, a municipality or county located in whole or in part in the subwatershed of that arm would be required to implement a Stage 2 adaptive management program to control nutrient loading from existing development in the Jordan watershed (Stage 2 program).

DENR would establish a load reduction goal for existing development for each municipality and county required to implement a Stage 2 program. The load reduction goal would be designed to achieve an eight percent (8%) reduction in nitrogen loading of surface water from existing development and a five percent (5%) reduction in phosphorus loading of surface water from existing development relative to the baseline period 1997 through 2001. The baseline load for a municipality or county could not include nutrient loading from lands under State or federal control or lands in agriculture or forestry.

DENR would notify the local governments in each subwatershed that either:

- Implementation of a Stage 2 program will be necessary to achieve water quality standards in an arm of the reservoir and direct the municipalities and counties in the subwatershed to develop a load reduction program.
- Implementation of a Stage 2 program will not be necessary at that time but will be reevaluated in three years based on the most recent water quality monitoring information.

A local government receiving notice of the requirement to develop a Stage 2 program would not be required to submit a program if the local government demonstrates that it has already achieved the required reductions in nutrient loadings.

A Stage 2 program would be subject to approval by the EMC. The EMC may require changes in a Stage 2 program, but the EMC could not require a local government to:

- Install or require installation of a new stormwater collection system in an area of existing development unless the area is being redeveloped.
- Acquire property for purposes of reducing built upon area within an existing development.

If at any time DENR finds that an arm of the Jordan Reservoir has achieved compliance with water quality standards, DENR would notify the local governments in the subwatershed. Subject to the approval of the EMC, a local government could modify its Stage 2 program to maintain only those measures necessary to prevent increases in nutrient loading from existing development.

ıe PCS would also require DENR to submit a model Stage 2 adaptive management program to control ıutrient loading from existing development (model Stage 2 program) to the EMC for approval no later than December 31, 2014. The model Stage 2 program would be designed to achieve an eight percent (8%) reduction in nitrogen loading of surface water from existing development and a five percent (5%) reduction in phosphorus loading of surface water from existing development relative to the baseline period 1997 through 2001. The model Stage 2 program would also identify specific load reduction practices and programs and reduction credits associated with each practice or program. DENR would consider the findings and recommendations of the Scientific Advisory Board and comments submitted by affected municipalities and counties. The EMC would approve a final model Stage 2 program no later than December 31, 2015.

Stage 3 Program to Control Nutrient Loading from Existing Development

The PCS would provide that if DENR found that the Upper New Hope Creek Arm of the Jordan Reservoir had not achieved water quality standards by March 1, 2025, DENR, in consultation with the Scientific Advisory Board and after opportunity for comment by affected local governments, would determine whether additional measures to reduce nutrient loading from existing development would be feasible, taking into consideration the practicality of implementation and cost.

- If DENR found that additional reductions were feasible, it would develop a model Stage 3 adaptive management program to control nutrient loading from existing development (model Stage 3 program) no later than September 1, 2025. DENR would develop the model Stage 3 program in consultation with the Scientific Advisory Board and after opportunity for comment by the affected local governments. The model Stage 3 program would be designed to achieve a level of additional load reduction from existing development that is practicable, taking into consideration cost and benefits in the form of water quality improvement. DENR would notify local governments of the requirement to implement the model Stage 3 program or a program that achieves the same level of additional nutrient loading reductions.
- If DENR found that additional reductions were not feasible, DENR could initiate alternative regulatory actions, which could include the development of a variance or site-specific water quality standards.

Enforcement

The provisions in the PCS would be enforced through DENR's existing civil, criminal, and injunctive remedies for violations of water quality laws.

EMC to Adopt Substantively Identical Rule

The PCS would direct the EMC to adopt a rule to replace the Existing Development Rule that is substantively identical to the requirements of the PCS.

Scientific Advisory Board

The PCS would require the Secretary of Environment and Natural Resources to establish a Nutrient Sensitive Waters Scientific Advisory Board (Scientific Advisory Board) no later than July 1, 2010. The Scientific Advisory Board would consist of five to ten members with expertise and experience in stormwater management related issues. Under the PCS, the Scientific Advisory Board would have to do 'l of the following no later than July 1, 2012:

Identify management strategies that can be used by local governments to reduce nutrient loading from existing development.

- Evaluate the feasibility, costs, and benefits of implementing the identified management strategies.
- Develop an accounting system for assignment of nutrient reduction credits for the identified management strategies.
- Identify the need for any improvements or refinements to modeling and other analytical tools used to evaluate water quality in nutrient-impaired waters and nutrient management strategies.

EFFECTIVE DATE: This act would become effective when it becomes law.

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

April 28 , 2009
Date

SPEAKERS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

	Name	Representing (Agency/Company)
(M)	Don Safrit	PENC HB643
	Joe Rudek	EDF HB643
(4)	Frank Sanders	Onslow Water & Sewer Authority HB643

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

April 28 , 2009
Date

SPEAKERS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

Name (Swggett)	Representing (Agency/Company)
(1) Dale Swaggett	Waterfront Sportsmen 239/643
(2) Tess Sanders	White Oak-New Riverkeeper -643
Hope Taylor	Clean Water for North Carolina -643

SPEAKER REGISTRATION SHEET

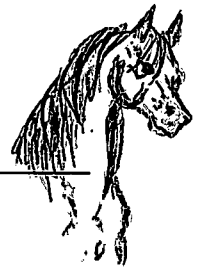
ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

April 28 , 2009
Date

SPEAKERS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

Name	Representing (Agency/Company)
Daniel Wilson	NC Rural Water Association. HB 643

VISITOR REGISTRATION SHEET



ENVIRONMENT (HOUSE) — **Name of Committee**

April 28, 2009 — **Date**

[VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jeh Kelly	NMFS
Coleen H. Sullins	DENR/DWQ
Ted Bush	" "
Thomas Slusser	DENR DWQ
Jon Risgaard	" "
Lori Montgomery	" "
GREG FLYNN	WAKEUP WAKE COUNTY.
Marlene Sanford	TREBIC (Triad Real Estate & Bldg. Ind. Coalition) 115 S. Westgate Dr, Greensboro, NC 27407
Randy Billings	Piedmont Triad Council of Governments 2216 W. Meadowview Rd, Suite 201 Greensboro, NC 27407
John Cox	City of Durham, Stormwater Services, 101 City Hall Plaza, Durham, NC ~~27514~~ 27701
Steven Levitas	Kilpatrick Stockton

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — April 28, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Kathy Everett-Perry	Durham County
[signature]	" "
Don Safrit	PENC
Betsy Bailey	PENC
Leslie Arnold	SOG-Daily Bulletin
Colleen Kochanek	KLG
Cameron Hanby	Electric Cities of NC
[signature]	NJJC
[signature]	NCFA
Anne Coan	NC Farm Bureau Fed.
Linda Andrews	NCFB
Kim Hibbard	NCLM

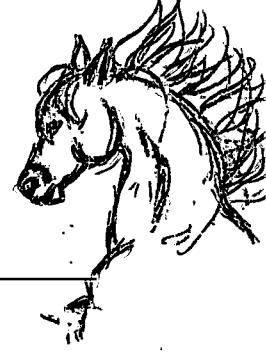
VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — April 28, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tommy Stevens	NCPC
ANTHONY MUOIO	none
Sarah Clapp	NCWRC
Alicia Davis	NWNC
Lisa Martin	NC Home Builders
Patrick Buffkin	NMRS
Zeb Alley	"
Doug Austin	NCSTA
Andrew Cagle	DLCT Assoc.
Preston Howard	MCIC
Rick Techin	NC Assoc of Realtors



VISITOR REGISTRATION SHEET

Environment & Nat Resrce — 4/28/09

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Cady Thomas	NCASN & REALTTB
BRUCE THOMASON	PARKER POE
Jim Handley	NCPC
Fern Shubert	
Rob Schofield	NCPW
Jim Blackburn	NC Association of County Commissioners
Kelli Kuka	WCLM

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — **Name of Committee**

April 28, 2009 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	BWSSF PO Box 2387 Rel NC 27602
Amy Sines	DENR
Peter Raabe	American Rivers
Amy Pickle	Nicholas Institute / Duke University
Hayley Rogers	North Carolina Rural Water Ass.
Daniel Wilson	North Carolina Rural Water Ass
Jon Cors	TNC
Lisa Schell	CWMTF
Chris Canfield	Audubon NC
Joe Rudek	EDF
Kim Brevard	NC Bar Assn.
Hope Taylor	Clean Water for NC

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — April 28, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jim Allen	ONWASA
Marvin Tutt	ONWASA
Jeff Pearson	Onwasa
Francis Sanders	Onslow Water & Sewer Authority
Elizabeth Ouzts	Environment North Carolina
Sam Smith	WCSR
Jim Stephenson	NC Coastal Federation

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — April 28, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Gordon Wilkins	self Conservation Network
Jesse Sanders	Whiteoak New Riverkeeper
Alan Clark	NC DWQ
Rich Gannon	"
JASON ROBINSON	"
Kevin Leonard	WCSR
Elizabeth Duncan	WCSR
Dale Swindell	Watauga Coastal Sports Rod
Robin Smith	DENR
Dan Crawford	CCNC
Molly Diggins	Sierra Club

House Pages

Name of Committee: Env & Nat Res. **Date:** 4/28/09

1. Name: Colby White
   County: Stokes
   Sponsor: Holloway
2. Name: Jessica Motts
   County: Jones
   Sponsor: McElraft
3. Name:
   County:
   Sponsor:
4. Name:
   County:
   Sponsor:
5. Name:
   County:
   Sponsor:

Sgt-At-Arms

1. Name: Young Bae
2. Name: Carton Adams
3. Name: EARL Coker
4. Name: David Shearon

James Worth

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE MEETING

APRIL 30, 2009
12:00 NOON
Room 643 LOB

Representative Lucy T. Allen, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

HB 239 - Disapprove Jordan Lake Rules
Primary Sponsors: Allen, Gibson, and Bordsen

ADJOURNMENT

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

April 30, 2009

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Thursday, April 30, 2009, in room 643 of the Legislative Office Building. Representative Lucy T. Allen presided. Members present were: Representatives Gillespie, Harrison, Tarleton, and Underhill, Vice-Chairs; Representatives Blackwood, Floyd, Gibson, Haire, Insko, Killian, Luebke, Martin, McElraft, Samuelson, Stiller, Tucker, West, and Womble.

Representative Allen called the meeting to order at 12:05 p.m. She began by introducing the pages: Reese Miller, Wake County (sponsored by Representative Stam) and Michelle Mann, Alamance County (sponsored by Representative Allred). She next presented the Sergeant-at-arms staff: Fred Hines, Frank Prevo, Rod Finger, Young Bae, and Ken Burroughs.

The only item on the agenda was HB 239 – A BILL TO BE ENTITLED AN ACT TO DISAPPROVE THE JORDAN WATER SUPPLY NUTRIENT STRATEGY RULES. Representative Allen indicated that no vote would be taken at this meeting, that the bill would merely be heard and discussed with an anticipated vote to occur on Tuesday. Representative Allen invited Jeff Hudson, staff attorney, to review the latest version of the bill. A proposed committee substitute was distributed. Representative Gillespie made a motion that the PCS be placed before the committee. This motion passed without objection. Following Mr. Hudson's review, questions from the committee were accepted and addressed.

At this time, Representative Allen outlined the process for speakers: each speaker would be limited to two minutes with an equal number of speakers favoring and opposing the bill. The first speaker was John Cox, Water Quality Manager for the City of Durham. He explained the depth of the involvement of the city in protecting Jordan Lake. He outlined the reasons the city supported this bill.

The second speaker was Randy Billings, Executive Director of the Piedmont Triad Council of Government in Greensboro. He spoke on behalf of 20 of the 26 local governments directly affected by the current rules. He asked the committee members to support the PCS, which he suggested was a viable compromise that should satisfy most parties.

Next to speak was Tom Vanderbeck, Chatham County Commissioner. He spoke of the effects this legislation would have on the drinking water of the citizens in his county. He indicated his belief that this would weaken restrictions and would hinder any clean-up of the lake. He asked the committee to vote in opposition to the PCS before them. (A copy of his remarks is attached.)

Next to speak was Elaine Chiosso, Haw Riverkeeper for the Haw River Assembly. She spoke of the impairment to the water condition in Jordan Lake and talked of her organization's opposition to the bill. She distributed a data sheet reflecting the current water quality of Jordan Lake (copy attached) and a map of the Haw River Watershed area showing all the impaired waters in the watershed area (copy attached).

Elizabeth Outz, State Director of Environment North Carolina, spoke next. She indicated that her group did not believe that the current PCS would adequately protect the lake and control polluted run-off from rapid development in three key ways: 1) it fails to answer the question, "Will controls on existing development be required?" 2) if controls are required, this PCS delays them for nine years and nutrient requirements won't begin for another 17 years, and 3) the questionable cost to local governments. She volunteered to work with all parties to reach a compromise to better meet everyone's needs.

The next speaker was Marlene Sanford representing the Triad Real Estate and Building Industry Coalition and the North Carolina Homebuilders Association. She asked that the committee reconsider a part of the rule that deals with the buy-down limits for nitrogen. She said the cost of the buy-down is enormous and given the economic climate it is going to be a tremendous burden. She asked that the limits be changed to match other rules currently in effect for other areas.

The final speaker was Robin Smith, Assistant Secretary of the Department of Natural and Environmental Resources. She offered to provide a copy of the model ordinance that was developed for the administrative program, which is very similar under the stage 2 stormwater requirements. None has yet been developed for this program, but the requirements in the PCS closely match up to what is already required under phase 2.

Representative Allen apologized to speakers who signed up but were unable to speak because of limited time. She invited them to leave written remarks for committee members. (Copies of those are attached.)

At this time Representative Allen opened the floor for questions from the committee. Once these were satisfactorily addressed, and with no further business to come before the committee, the meeting was adjourned at 12:50 p.m.

Respectfully submitted,

Representative Lucy T. Allen, Chair

Shara Graham, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 239
PROPOSED COMMITTEE SUBSTITUTE H239-PCS50641-SB-25

Short Title: Restore Water Quality in Jordan Reservoir. (Public)

Sponsors:

Referred to:

February 23, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR IMPROVEMENTS IN THE MANAGEMENT OF THE JORDAN WATERSHED IN ORDER TO RESTORE WATER QUALITY IN THE JORDAN RESERVOIR.

The General Assembly of North Carolina enacts:

SECTION 1. Definitions. – The following definitions apply to this act and its implementation:

(1) The definitions set out in G.S. 143-212 and G.S. 143-213.

(2) The definitions set out in 15A NCAC 02B .0262 (Jordan Water Supply Nutrient Strategy: Purpose and Scope) and 15A NCAC 02B .0263 (Jordan Water Supply Nutrient Strategy: Definitions).

(3) "Division" means the Division of Water Quality in the Department of Environment and Natural Resources.

(4) "Existing Development Rule 15A NCAC 02B .0266" means 15A NCAC 02B .0266 (Jordan Water Supply Nutrient Strategy: Stormwater Management for Existing Development), adopted by the Commission on May 8, 2008, and approved by the Rules Review Commission on November 20, 2008.

(5) "Wastewater Discharge Rule 15A NCAC 02B .0270" means 15A NCAC 02B .0270 (Jordan Water Supply Nutrient Strategy: Wastewater Discharge Requirements) adopted by the Commission on May 8, 2008, and approved by the Rules Review Commission on October 16, 2008.

SECTION 2.(a) Wastewater Discharge Rule 15A NCAC 02B .0270. – Until the effective date of the revised permanent rule that the Commission is required to adopt pursuant to Section 2(c) of this act, the Commission and the Department shall implement the Wastewater Discharge Rule 15A NCAC 02B .0270, as provided in Section 2(b) of this act.

SECTION 2.(b) Implementation. – Notwithstanding sub-subdivision (c) of subdivision (6) of Wastewater Discharge Rule 15A NCAC 02B .0270, each existing discharger with a permitted flow greater than or equal to 0.1 million gallons per day (MGD) shall limit its total nitrogen discharge to its active individual discharge allocation as defined or modified pursuant to Wastewater Discharge Rule 15A NCAC 02B .0270 no later than calendar year 2016.

SECTION 2.(c) Additional Rule-Making Authority. – The Commission shall adopt a rule to replace Wastewater Discharge Rule 15A NCAC 02B .0270. Notwithstanding

G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 2(b) of this act. Rules adopted pursuant to this section are not subject to G.S. 150B-21.9 through G.S. 150B-21.14. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 3.(a) Existing Development Rule 15A NCAC 02B .0266 Disapproved. – Pursuant to G.S. 150B-21.3(b1), Existing Development Rule 15A NCAC 02B .0266, as adopted by the Environmental Management Commission on May 8, 2008, and approved by the Rules Review Commission on November 20, 2008, is disapproved.

SECTION 3.(b) References in the North Carolina Administrative Code to the rule cited in Section 3(a) of this act shall be deemed to refer to the equivalent provisions of this act.

SECTION 3.(c) Nutrient Monitoring. – The Department shall maintain an ongoing program to monitor water quality in each arm of Jordan Reservoir. The Department shall also accept water quality sampling data from a monitoring program implemented by a local government or nonprofit organization if the data meets quality assurance standards established by the Department. On March 1, 2014, the Department shall report the results of monitoring in each arm of Jordan Reservoir to the Environmental Review Commission. The Department shall submit an updated report under this section every three years thereafter until such time as the lake is no longer impaired by nutrient pollution.

SECTION 3.(d) Control of Nutrient Loading From Existing Development. – The Department shall require implementation of reasonable nutrient load reduction measures for existing development in each arm of the Jordan Reservoir, as provided in this act. The Department shall determine whether nutrient load reduction measures for existing development are necessary in each subwatershed of Jordan Reservoir and require implementation of reasonable nutrient reduction measures in accordance with an adaptive management program as follows:

(1) Stage 1 Adaptive Management Program to Control Nutrient Loading From Existing Development. –

a. Municipalities and counties located in whole or in part in the Jordan watershed shall implement a Stage 1 adaptive management program to control nutrient loading from existing development in the Jordan watershed. The Stage 1 adaptive management program shall meet the requirements set out in 40 C.F.R. § 122.34 as applied by the Department in the NPDES General Permit for municipal separate storm sewer systems in effect on July 1, 2009. The Stage 1 adaptive management program shall include all of the following measures:

1. A public education program to inform the public of the impacts of nutrient loading and measures that can be implemented to reduce nutrient loading from stormwater runoff from existing development.
2. A mapping program that includes major components of the municipal separate storm sewer system, including the location of major outfalls, as defined in 40 Code of Federal Regulations §122.26(b)(5) (July 1, 2008) and the names and location of all waters of the United States that receive discharges from those outfalls, land use types, and location of sanitary sewers.
3. A program to identify and remove illegal discharges.
4. A program to identify opportunities for retrofits and other projects to reduce nutrient loading from existing developed lands.

5. A program to ensure maintenance of best management practices implemented by the local government.

b. The Department shall accept local government implementation of another stormwater program or programs meeting the standards set out in this section as satisfying one or more of the requirements set forth in sub-subdivision a. of this subdivision. The local government shall provide technical information sufficient to demonstrate the adequacy of the alternative program or program elements.

c. A Stage 1 adaptive management program to control nutrient loading from existing development shall be implemented as follows:

1. No later than December 31, 2009, each local government shall submit its Stage 1 adaptive management program to the Commission for review and approval.

2. Within six months following submission of a Stage 1 adaptive management program, the Division shall recommend that the Commission approve or disapprove the program. The Commission shall either approve the program or require changes based on the standards set out in sub-subdivision a. of this subdivision. If the Commission requires changes, the local government shall submit revisions responding to the required changes within two months and the Department shall provide follow-up recommendations to the Commission within two months after receiving revisions.

3. Within three months following Commission approval of a Stage 1 adaptive management program, the local government shall begin implementation of the program. Each local government shall report annually to the Department on implementation of its program.

(2) Stage 2 Adaptive Management Program to Control Nutrient Loading From Existing Development. –

a. If the March 1, 2017, report or any subsequent monitoring report for an arm of Jordan Reservoir required under Section 3(c) of this act shows that nutrient-related water quality standards are not being achieved, a municipality or county located in whole or in part in the subwatershed of that arm of Jordan Reservoir shall develop and implement a Stage 2 adaptive management program to control nutrient loading from existing development in the Jordan watershed, as provided in this act. The Department shall defer development and implementation of Stage 2 adaptive management programs to control nutrient loading from existing development required in an arm of Jordan Reservoir by this subdivision if it determines that additional reductions in nutrient loading from existing development in that arm will not be necessary to achieve nutrient-related water quality standards. In making this determination, the Department shall consider the anticipated effect of measures implemented or scheduled to be implemented to reduce nutrient loading from sources in the arm other than existing development. If any subsequent monitoring report for an arm of Jordan Reservoir required under Section 3(c) of this act shows that nutrient-related water quality standards have not been achieved, the Department shall notify the municipalities and counties located in whole or in part in the subwatershed of that arm of Jordan

Reservoir and the municipalities and counties shall develop and implement a Stage 2 adaptive management program as provided in this subdivision.

b. The Department shall establish a load reduction goal for existing development for each municipality and county required to implement a Stage 2 adaptive management program to control nutrient loading from existing development. The load reduction goal shall be designed to achieve an eight percent (8%) reduction in nitrogen loading of surface water from existing development and a five percent (5%) reduction in phosphorus loading of surface water from existing development relative to the baseline period 1997 through 2001 and reaching Jordan Reservoir from existing developed lands within the municipal limits or county boundary. The baseline load shall be calculated by applying the Tar-Pamlico Nutrient Export Calculation Worksheet, Piedmont Version, dated October 2004, to acreages of different types of existing development within the local government planning jurisdiction during the baseline period. The baseline load may also be calculated using an equivalent or more accurate method acceptable to the Division and recommended by the Scientific Advisory Board established pursuant to Section 4(a) of this act. The baseline load for a municipality or county shall not include nutrient loading from lands under State or federal control or lands in agriculture or forestry. The load reduction goal shall be adjusted to account for nutrient loading increases from lands developed subsequent to the baseline period but prior to implementation of new development stormwater programs.

c. Based on findings under sub-subdivisions a. and b. of this subdivision, the Department shall notify the local governments in each subwatershed that either:

1. Implementation of a Stage 2 adaptive management program to control nutrient loading from existing development will be necessary to achieve water quality standards in an arm of the reservoir and direct the municipalities and counties in the subwatershed to develop a load reduction program in compliance with this section.
2. Implementation of a Stage 2 adaptive management program to control nutrient loading from existing development is not necessary at that time but will be reevaluated in three years based on the most recent water quality monitoring information.

d. A local government receiving notice of the requirement to develop and implement a Stage 2 adaptive management program to control nutrient loading from existing development under this section shall not be required to submit a program if the local government demonstrates that it has already achieved the reductions in nutrient loadings required by sub-subdivision b. of this subdivision.

e. Within six months after receiving notice to develop and implement a Stage 2 adaptive management program to control nutrient loading from existing development, each local government shall submit to the Commission a program that is designed to achieve the reductions in nutrient loadings established by the Division pursuant to

sub-subdivision b. of this subdivision. A local government program may include nutrient management strategies that are not included in the model program developed pursuant to Section 3(c) of this act in addition to or in place of any component of the model program. In addition, a local government may satisfy the requirements of this subdivision through reductions in nutrient loadings from other sources in the same subwatershed to the extent those reductions go beyond measures otherwise required by statute or rule. A local government may also work with other local governments within the same subwatershed to collectively meet the required reductions in nutrient loadings from existing development within their combined jurisdictions. Any credit for reductions achieved or obtained outside of a local government's planning jurisdiction shall be adjusted based on transport factors established by the Department document Nitrogen and Phosphorus Delivery from Small Watersheds to Jordan Lake, dated June 30, 2002.

f. Within six months following submission of a local government's Stage 2 adaptive management program to control nutrient loading from existing development, the Department shall recommend that the Commission approve or disapprove the program. The Commission shall approve the program if it meets the requirements of this subdivision, unless the Commission finds that the local government can, through the implementation of reasonable and cost-effective measures not included in the proposed program, meet the reductions in nutrient loading established by the Department pursuant to sub-subdivision b. of this subdivision by a date earlier than that proposed by the local government. If the Commission finds that there are additional or alternative reasonable and cost-effective measures, the Commission may require the local government to modify its proposed program to include such measures to achieve the required reductions by the earlier date. If the Commission requires such modifications, the local government shall submit a modified program within two months. The Department shall recommend that the Commission approve or disapprove the modified program within three months after receiving the local government's modified program. In determining whether additional or alternative load reduction measures are reasonable and cost effective, the Commission shall consider factors including, but not limited to, the increase in the per capita cost of a local government's stormwater management program that would be required to implement such measures and the cost per pound of nitrogen and phosphorus removed by such measures. The Commission shall not require additional or alternative measures that would require a local government to:

1. Install or require installation of a new stormwater collection system in an area of existing development unless the area is being redeveloped.
2. Acquire developed private property.
3. Reduce or require the reduction of impervious surfaces within an area of existing development unless the area is being redeveloped.

g. Within three months after the Commission's approval of a Stage 2 adaptive management program to control nutrient loading from existing development, the local government shall complete adoption and begin implementation of its program.

h. Each local government implementing a Stage 2 adaptive management program to control nutrient loading from existing development shall submit an annual report to the Division summarizing its activities in implementing its program.

i. If at any time the Department finds, based on water quality monitoring, that an arm of the Jordan Reservoir has achieved compliance with water quality standards, the Department shall notify the local governments in the subwatershed. Subject to the approval of the Commission, a local government may modify its Stage 2 adaptive management program to control nutrient loading from existing development to maintain only those measures necessary to prevent increases in nutrient loading from existing development.

SECTION 3.(e) Model Stage 2 Adaptive Management Program to Control Nutrient Loading From Existing Development. – No later than December 31, 2014, the Department shall submit a model Stage 2 adaptive management program to control nutrient loading from existing development to the Commission for approval. The model program shall identify specific load reduction practices and programs and reduction credits associated with each practice or program. In developing the model program, the Department shall consider the findings and recommendations of the Scientific Advisory Board established pursuant to Section 4(a) of this act and comments submitted by municipalities and counties identified in 15A NCAC 02B .0262(7) (Jordan Water Supply Nutrient Strategy: Purpose and Scope). The Commission shall review the model program and either approve the program or return it to the Department with requested changes. The Department shall revise the model program to address changes requested by the Commission. The Commission shall approve a final model program no later than December 31, 2015.

SECTION 3.(f) Additional Measures to Reduce Nitrogen Loading From Existing Development in the Upper New Hope Creek Arm of the Jordan Reservoir. –

(1) If the March 1, 2026, report or any subsequent monitoring report for the Upper New Hope Creek Arm of Jordan Reservoir shows that nutrient-related water quality standards are not being achieved, a municipality or county located in whole or in part in the Upper New Hope Creek Subwatershed shall modify its Stage 2 adaptive management program to control nutrient loading from existing development to achieve additional reductions in nitrogen loading from existing development. The modified Stage 2 adaptive management program shall be designed to achieve a total reduction in nitrogen loading from existing development of thirty-five percent (35%) relative to the baseline period 1997 through 2001. The Department shall notify local governments of the requirement to submit a modified Stage 2 adaptive management program. Submission, review and approval, and implementation of a modified Stage 2 adaptive management program shall follow the process, timeline, and standards set out in sub-subdivisions e. through g. of subdivision (2) of Section 3(d) of this act.

(2) At the request of one or more local governments located in whole or in part in the Upper New Hope Creek Subwatershed, the Commission may initiate alternative regulatory actions authorized by State or federal law, including, but not limited to, the granting of a variance and the establishment of

alternative water quality standards for the Upper New Hope Creek Arm of Jordan Reservoir.

SECTION 3.(g) Enforcement. – The Department shall enforce the provisions of this act as provided in G.S. 143-215.6A, 143-215.6B, and 143-215.6C.

SECTION 3.(h) Collective Compliance. – Local governments that are subject to regulation under this act may establish collective programs to comply with the requirements of this act.

SECTION 3.(i) Report. – The Division shall report annually to the Commission regarding the implementation of adaptive management programs to control nutrient loading from existing development in the Jordan watershed.

SECTION 3.(j) Additional Rule-Making Authority. – The Commission shall adopt a rule to replace Sections 3(c) through 3(i) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Sections 3(c) through 3(f) of this act. Rules adopted pursuant to this section are not subject to G.S. 150B-21.9 through G.S. 150B-21.14. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.(a) Scientific Advisory Board for Nutrient-Impaired Waters Established. – No later than July 1, 2010, the Secretary shall establish a Nutrient Sensitive Waters Scientific Advisory Board. The Scientific Advisory Board shall consist of no fewer than five and no more than 10 members with the following expertise or experience:

(1) Representatives of one or more local governments in the Jordan Reservoir watershed. Local government representatives shall have experience in stormwater management, flood control, or management of a water or wastewater utility.

(2) One member with at least 10 years of professional or academic experience relevant to the management of nutrients in impaired water bodies and possessing a graduate degree in a related scientific discipline, such as aquatic science, biology, chemistry, geology, hydrology, environmental science, engineering, economics, or limnology.

(3) One professional engineer with expertise in stormwater management, hydrology, or flood control.

(4) One representative of the Department of Transportation with expertise in stormwater management.

(5) One representative of a conservation organization with expertise in stormwater management, urban landscape design, nutrient reduction, or water quality.

SECTION 4.(b) Duties. – No later than July 1, 2012, the Scientific Advisory Board shall do all of the following:

(1) Identify management strategies that can be used by local governments to reduce nutrient loading from existing development.

(2) Evaluate the feasibility, costs, and benefits of implementing the identified management strategies.

(3) Develop an accounting system for assignment of nutrient reduction credits for the identified management strategies.

(4) Identify the need for any improvements or refinements to modeling and other analytical tools used to evaluate water quality in nutrient-impaired waters and nutrient management strategies.

SECTION 4.(c) Report; Miscellaneous Provisions. – The Scientific Advisory Board shall also advise the Secretary on any other issue related to management and restoration of nutrient-impaired water bodies. The Scientific Advisory Board shall submit an annual report

to the Secretary no later than July 1 of each year concerning its activities, findings, and recommendations. Members of the Scientific Advisory Board shall be reimbursed for reasonable travel expenses to attend meetings convened by the Department for the purposes set out in this section.

SECTION 5. No Preemption. – A local government may adopt and implement a stormwater management program that contains provisions that are more restrictive than the standards set forth in Sections 2 and 3 of this act or in any rules concerning stormwater management in the Jordan watershed adopted by the Commission. This section shall not be construed to authorize a local government to impose stormwater management requirements on lands in agriculture or forestry.

SECTION 6. Construction of Act. –

(1) Except as specifically provided in Sections 2(c) and 3(j) of this act, nothing in this act shall be construed to limit, expand, or otherwise alter the authority of the Commission or any unit of local government.

(2) This act shall not be construed to affect any delegation of any power or duty by the Commission to the Department or subunit of the Department.

SECTION 7. Note to Revisor of Statutes. – Notwithstanding G.S. 164-10, the Revisor of Statutes shall not codify any of the provisions of this act. The Revisor of Statutes shall set out the text of Section 2 of this act as a note to G.S. 143-215.1 and may make notes concerning this act to other sections of the General Statutes as the Revisor of Statutes deems appropriate. The Revisor of Statutes shall set out the text of Section 3 of this act as a note to G.S. 143-214.7 and may make notes concerning this act to other sections of the General Statutes as the Revisor of Statutes deems appropriate.

SECTION 8. Effective Date. – This act is effective when it becomes law.

CHATHAM COUNTY
NORTH CAROLINA

CHATHAM COUNTY COMMISSIONER
TOM VANDERBECK

P. O. Box 1809 • Pittsboro, NC 27312
Home Phone: 919-545-2160
Email: Tom@vanderbeck4chatham.org
County Office: 919-542-8200 • County Fax: 919-542-8272

Good Afternoon, Representative Allen and Committee members. I am Tom Vanderbeck, a Chatham County Commissioner. Jordan Lake falls primarily within Chatham County since approximately 40,000 acres of Chatham County land was sacrificed to construct it. This is a revenue loss currently valued at 800 million dollars. We have a very personal interest in this bill. The lake is the source of drinking water for approximately 400,000 people in the Triangle region, including Chatham residents, and a popular recreation area for about a million visitors a year. A polluted lake is a cause for concerns about health and economic impacts for Chatham County.

The legislature first called for a clean up of Jordan Lake in 1997 because of excessive nutrients levels. THAT WAS 12 YEARS AGO. The EPA placed the lake on the impaired waters list back in 2002. The rules finally passed by the Environmental Management Commission last year provide for timely, steady progress on nutrient reduction and allow adequate time to achieve the reductions. Chatham County voted in February to endorse the rules passed by the EMC. The are the product of a long stakeholder process and compromise, and should not be further weakened now.

This substitute bill proposal we have seen is drastically different from the EMC's recommendations. It proposes delays in implementation of pollution reductions, it lowers drastically the nitrogen removal targets in the Upper New Hope arm and allows for a variance (Section 3f 2) which defeats the entire purpose of the legislation. These provisions are totally inadequate for restoration of the water quality. It would mean that the lake would never actually be cleaned up.

The only logical way to deal with this pollution problem is by making sure we actually reduce the pollution at the sources where it enters the lake. This has to

include sources of both new and current pollution including stormwater controls and reduction of nutrients from WWTP's. The Lake continues to degrade. Chatham County urges you to consider the very real costs to downstream users if the work to clean up Jordan Lake is not started soon.

Tom Vanderbeck
30 April 2009

DWQ DATA - Jordan Lake
Chlorophyl a

	Haw River Arm		Upper New Hope Arm			Lower New
	Below Robeson Cr	Near Dam	N.H. Cr.	Morgan Cr.	At 1008	Above 64
Date	CPF055C	CPF055E	CPF081A1C	CPF086C	CPF086F	CPF087B3
January 5, 2005	34	12	37	37	33	29
February 8, 2005	7	16	45	38	51	34
March 22, 2005	19	28	41	28	47	52
April 20, 2005	52	72	61	38	25	53
May 23, 2005						
June 27, 2005						
July 12, 2005						
August 23, 2005						
October 10, 2005	22	28	52	37	31	39
November 7, 2005	57	27	41	69	49	43
December 12, 2005	2	5	46	46	46	25
January 12, 2006	23	26	48	61	49	40
February 21, 2006	17	31	82	66	66	44
March 23, 2006	26	30	52	75	71	48
April 11, 2006	27	46	56	64	64	36
May 16, 2006	57	33	51	48	29	26
June 13, 2006	35	28	50	59	47	30
July 5, 2006	26	33	48	57	44	42
August 14, 2006	40	28	79	79	61	42
September 21, 2006	40	43	65	56	74	50
October 4, 2006	72	50	46	66	58	44
November 2, 2006	44	25	49	29	48	21
December 6, 2006	10	20	16	35	25	19
January 16, 2007	18	18	36	47	27	29
February 22, 2007	12	32	48	51	49	52
March 7, 2007	15	16	74	72	85	44
April 17, 2007	10	9	38	33	31	13
May 15, 2007	33	25	48	50	34	26
June 12, 2007	44	27	67	66	51	22
July 17, 2007	40	31	78	99	53	47
August 1, 2007	46	27	110	73	72	42
September 17, 2007	42	31	120	120	110	56
October 10, 2007	52	43	96	105	68	54
November 28, 2007	24	17	80	74	66	29
December 11, 2007	32	16	52	56	37	24
January 8, 2008	35	24	23	24	25	34
February 12, 2008	19	33	72	99	62	37
March 13, 2008	16	28	74	77	66	37
April 10, 2008	26	52	75	85	180	47
May 19, 2008	35	33	77	70	68	35
June 17, 2008	49	32	56	54	38	22
July 17, 2008	47	21	66	53	54	27
August 14, 2008	37	14	64	64	40	28
September 23, 2008	32	31	51	48	56	31

Lower New Hope Arm

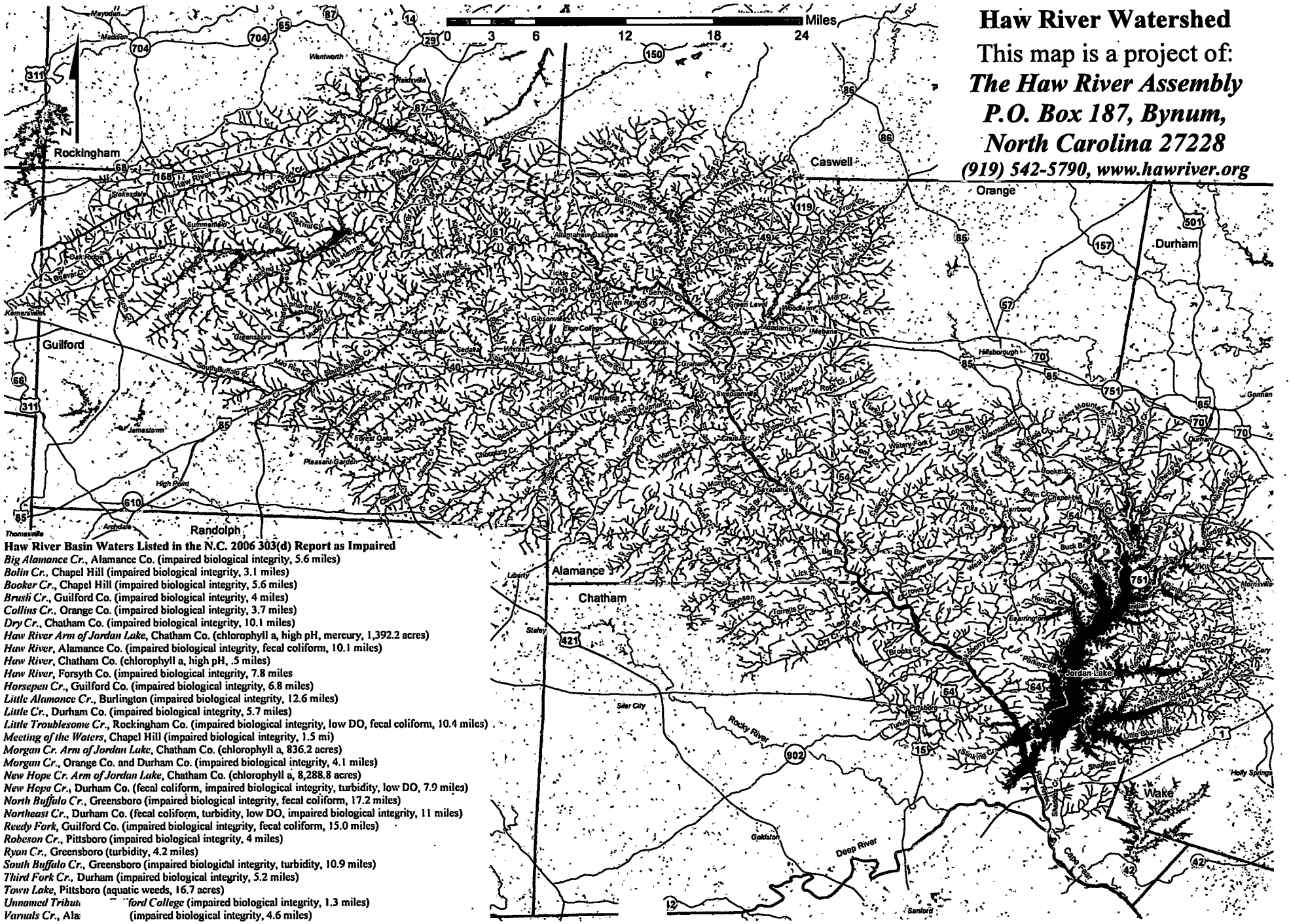
Above 64 CPF087B3	At 64 CPF087D	Below 64 CPF08801A	Below 64 CPF0880A	Standard
29	43	46	13	40
34	28	26	27	40
52	44	51	36	40
53	42	63	41	40
				40
				40
				40
				40
39	31	31	28	40
43	34	29	21	40
25	20	22	20	40
40	26	31	28	40
44	42	41	38	40
48	43	43	45	40
36	37	38	40	40
26	16	33	21	40
30	25	26	26	40
42	30	20	25	40
42	34	28	34	40
50	48	40	45	40
44	31	37	36	40
21	32	38	30	40
19	21	18	26	40
29	25	30	27	40
52	36	32	34	40
44	40	44	35	40
13	13	10	9	40
26	22	20	26	40
22	20	18	18	40
47	29	29	24	40
42	39	28	27	40
56	64	30	35	40
54	49	48	54	40
29	24	23	20	40
24	21	26	15	40
34	30	36	28	40
37	36	31	34	40
37	38	38	39	40
47	56	42	44	40
35	15	18	21	40
22	23	13	18	40
27	31	23	22	40
28	20	20	17	40

for chlorophyl a

Haw River Watershed

This map is a project of:

The Haw River Assembly
P.O. Box 187, Bynum,
North Carolina 27228
(919) 542-5790, www.hawriver.org



Haw River Basin Waters Listed in the N.C. 2006 303(d) Report as Impaired

Big Alamance Cr., Alamance Co. (impaired biological integrity, 5.6 miles)
Bolin Cr., Chapel Hill (impaired biological integrity, 3.1 miles)
Booker Cr., Chapel Hill (impaired biological integrity, 5.6 miles)
Brush Cr., Guilford Co. (impaired biological integrity, 4 miles)
Collins Cr., Orange Co. (impaired biological integrity, 3.7 miles)
Dry Cr., Chatham Co. (impaired biological integrity, 10.1 miles)
Haw River Arm of Jordan Lake, Chatham Co. (chlorophyll a, high pH, mercury, 1,392.2 acres)
Haw River, Alamance Co. (impaired biological integrity, fecal coliform, 10.1 miles)
Haw River, Chatham Co. (chlorophyll a, high pH, .5 miles)
Haw River, Forsyth Co. (impaired biological integrity, 7.8 miles
Horsepen Cr., Guilford Co. (impaired biological integrity, 6.8 miles)
Little Alamance Cr., Burlington (impaired biological integrity, 12.6 miles)
Little Cr., Durham Co. (impaired biological integrity, 5.7 miles)
Little Troublesome Cr., Rockingham Co. (impaired biological integrity, low DO, fecal coliform, 10.4 miles)
Meeting of the Waters, Chapel Hill (impaired biological integrity, 1.5 mi)
Morgan Cr. Arm of Jordan Lake, Chatham Co. (chlorophyll a, 836.2 acres)
Morgan Cr., Orange Co. and Durham Co. (impaired biological integrity, 4.1 miles)
New Hope Cr. Arm of Jordan Lake, Chatham Co. (chlorophyll a, 8,288.8 acres)
New Hope Cr., Durham Co. (fecal coliform, impaired biological integrity, turbidity, low DO, 7.9 miles)
North Buffalo Cr., Greensboro (impaired biological integrity, fecal coliform, 17.2 miles)
Northeast Cr., Durham Co. (fecal coliform, turbidity, low DO, impaired biological integrity, 11 miles)
Reedy Fork, Guilford Co. (impaired biological integrity, fecal coliform, 15.0 miles)
Robeson Cr., Pittsboro (impaired biological integrity, 4 miles)
Ryan Cr., Greensboro (turbidity, 4.2 miles)
South Buffalo Cr., Greensboro (impaired biological integrity, turbidity, 10.9 miles)
Third Fork Cr., Durham (impaired biological integrity, 5.2 miles)
Town Lake, Pittsboro (aquatic weeds, 16.7 acres)
Unnamed Tributary to Guilford College (impaired biological integrity, 1.3 miles)
Varnals Cr., Alamance Co. (impaired biological integrity, 4.6 miles)

WakeUP
WAKE COUNTY

P.O. Box 6484 Raleigh, NC 27628

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www.wakeupwakecounty.com

May 4, 2009

To: Members of House Committee on Environment and Natural Resources
From: Karen Rindge, Executive Director, WakeUP Wake County
Subject: **Please Support Jordan Lake Rules and Oppose PCS**

WakeUP Wake County, a citizens' non-profit organization supporting good growth solutions in Wake and the Triangle, supports the Jordan Lake rules passed by the Environmental Management Commission (EMC) and approved by the Rules Review Commission. **WakeUP Wake County urges you to oppose HB 239 as introduced and in the form of the Proposed Committee Substitute (PCS) distributed at the April 27 meeting of the House Committee on Environment and Natural Resources.**

- **Jordan Lake is severely impaired from polluted runoff and wastewater discharged into upstream creeks.** High levels of pollution and an overabundance of nitrogen and phosphorus nutrients have resulted in dangerous algal blooms and chemical conditions in the lake, as well as in upstream creeks. Without improvements to current wastewater treatment and stormwater practices, this critical drinking water supply will remain impaired.

- **Jordan Lake provides drinking water for over 460,000 people in the fast-growing Triangle region. The Towns Cary, Apex and Chapel Hill and Chatham and Orange Counties have passed resolutions in favor of the Jordan Lake rules.**

- **The 2008 rules give upstream municipalities lenient timelines and the flexibility to implement practices that meet their budgets.** Existing development retrofits don't have to be costly; **they could be as simple as limiting fertilizer use.** The approved rules fairly divide the responsibility for cleaning up the lake among all the areas that are contributing to the problem.

- **The Jordan Lake rules set an important precedent for Falls Lake,** which is quickly degrading to the same low quality as Jordan Lake. Implementing strong rules to restore and protect Jordan Lake will set an example for Falls Lake, the drinking water supply for Raleigh and rapidly growing Eastern Wake County.

WakeUP Wake County could support legislation to provide greater clarity about the retrofit obligations of local government for controlling polluted runoff from existing development. **Unfortunately, the April 27 PCS does not merely clarify; it delays and weakens measures that we know are essential to restore water quality in this important drinking water reservoir.**

We are participating in efforts to work with the upstream communities to craft a solution we can all live with, but until these negotiations reach a successful outcome, **WakeUP Wake County asks you to oppose H239.**

Chapel Hill position – HB 239 [Jordan Lake Rules] proposed Committee substitute

Ed Harrison, Chapel Hill Town Council

On behalf of my colleagues on the Town Council, I attended the hearing on the HB 239 PCS last Wednesday in the hope of expressing a unique local government perspective. Chairman Allen had to limit the number of speakers due to time constraints and the essential need to hear from Committee members.

This is a written version of comments I would have made, with some updating based on potential revisions to the PCS for the bill. All refer to the "Existing Development" rule which is source of most of the debate before your body.

We would take a position neither favoring nor opposing the PCS of Aprll 28 – as stated above, a unique position among local governments.

Chapel Hill is one of a very small number of local governments which went on the record in support of the EMC rules, with the caveat that we were doing a lot, had done a lot, and planned to do a lot to control our nutrient pollution of Jordan Lake – and we wanted to get full credit for this in any regulations.

A major basis for our support was a Good Neighbor attitude, and as well the possibility of benefits to our own impaired streams from further controls.

Our Chapel Hilll staff were not as willing to withhold opposition, and submitted a very useful set of comments to the EMC via our Manager, focusing in part on the significant additional workload the rules would impose. Our Town staff evaluation of the PCS is that "we can live with this."

Chapel Hill, with a small land area and much development pressure, has asked a lot of builders in recent decades. As a result, we've had stream buffer requirements for over 20 years which significantly exceed the standard (30 feet on either side of a stream) in the rules. And we believe that we've been controlling nutrient inputs to the Jordan Lake watershed, as a community, to a much greater extent than many other places in the watershed.

And, more importantly, we have a comprehensive Stormwater Master Plan well under way that details the path we can take to protect Jordan Lake in our own jurisdiction.

We intend to achieve progress in our own borders. What we can't see in the PCS is an absolute guarantee that every single jurisdiction in the Jordan Lake watershed will have to show progress, whether matching ours or not.

Here are **three suggestions** we have for the PCS:

1. As a matter of fairness for those who intend to achieve much more protection of this critically important water resource, we would ask the Committee to amend the PCS to require **consistent and steady progress** of ALL governments in the Jordan Lake watershed.

2. Also, although my Council's support for the original rules was not conditioned by cost implications, the **"cost cap"** brought up by Representative Luebke last Thursday has significant benefits in terms of making budget projections in these difficult times.

3. Finally, in terms of cost, anything the Committee, and the General Assembly in general, can do to **optimize the opportunities for grants** to localities to help with our work in controlling nutrients, is most necessary.

Thank you for your service to our great State.

5/5/09

We appreciate the opportunity to look at this draft before it was presented to the committee. But as we have shared with Chairwoman Allen, we don't believe the current draft will protect Jordan Lake. As the committee learned on Tuesday, Jordan Lake is a valuable recreational and drinking water resource that needs to be restored. Polluted runoff from rapid development is a central cause to the nutrient problems that plague the lake. This draft fails to reasonably control polluted runoff on three key fronts:

First, on page 3, it fails to answer the question: will controls on existing development be required for any section of the lake? This draft delays debate on that question for another 7 1/2 years--setting up a future slugging match that the legislature will surely have to referee.

Second, if controls on existing development are required, this draft delays them for nine years, at which time, local governments will begin to implement a plan to help the Haw Arm meet basic water quality standards. Nutrient reductions from existing development to help the Upper New Hope Arm meet basic water quality standards wouldn't begin for another 17 years.

Finally, as we understand it, the principle concern from the local government is the cost of the existing development rule. We feel this draft needlessly delays clean-up from development without providing the certainty that the local governments want. We are eager to work with committee members and with the chair on a solution that will both limit the local governments' liability and protect Jordan Lake.

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

April 30 , 2009

SPEAKERS: PLEASE SIGN IN BELOW

Name & Title	Representing (Agency/Company)	Bill #	Favor/ Oppose
Dale Swigell	Waterfront Sportsman	239	
(5) Elizabeth Outz	Environment North Carolina		FO
(3) COMMISSIONER TOM VANDERBECK CHATHAM CO.	Chatham County	239	O
Gordy McCallie	NC Conservation Network	239	O
FRED ROYAL	CHATHAM COUNTY	239	O
(4) Elaine Chiosso Haw Riverkeeper	Haw River Assembly	239	O
Kim Hibbard	NC League of Municipalities	239	F
Bill Jensen	Self / Apex	239	
(1) John Cox	City of Durham	239	F
(2) Randy Dillinger	Piedmont Triad Council of Governments	239	F

#2

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

April 30 , 2009

SPEAKERS: PLEASE SIGN IN BELOW

Name & Title	Representing (Agency/Company)	Bill #	Favor/ Oppose
John Cox Water Quality Manager	City of Durham Stormwater Services	HB239	F
Ed Harrison Council Member	Chapel Hill	HB 239	
(6) MARLENE SANFORD President	TRIAD REAL ESTATE & BUILDING INDUSTRY COALITION	HB239	
TED VOORHEES Deputy City Manager	City of Durham	HB 239	F
(1) Robin Smith Asst. Secretary	DENR	H239	

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

April 30 , 2009

SPEAKERS: PLEASE SIGN IN BELOW

Name & Title	Representing (Agency/Company)	Bill #	Favor/ Oppose
[illegible]	[illegible]		

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — April 30, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Kim Crowell	NC Bar Association
Sue Burke	Town of Chapel Hill Stormwater Division

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — April 30, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Amy Simms	DENR
Ed Harrison	Chapel Hill Town Council
Dale Sussgett	Water Front Sportsbar
Tim Vanderbeck	Chatham County
Elaine Chiosso	Haw River Assembly P.O. Box 187 Bynum NC 27228
William Jensen	Town of Apex Town Council
Elizabeth Oates	Environment North Carolina
Gordy McKay	NC Conservation Network
Coleen H Sullins	NCDWQ/DENR
Elizabeth Biser	DENR
Alan Clark	NCDWQ/DENR

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — **Name of Committee**

April 30, 2009 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
JASON ROBINSON	DENR/DWQ
Rich Gannon	"
Dan Crawford	CCNC
Johanna Reese	DOT
Andy McDaniel	DOT
Randy Billings	PTCOG
Michael Layne	City of Burlington
Josh Johnson	AW CK
John Cox	City of Durham
Dan M'Lawhorn	Raleigh
MAX ROGERS	DENR

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — April 30, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Anthony Amon	NCAEC
Palmer Sugg	BWST / City of Burlington
Ronnie Wall	City of Burlington
Charles Wellborn	BWST / City of Burlington
Cam Cover	BPMHC
Steven Levitas	Kilpatrick Stockton
Leslie Arnold	SOG-Daily Bulletin
Patrick Buffkin	NMRS
Kim Hibbard	NCCM
Kelli Kuhlmann	NCCM
Alicia Davis	MWC

House Pages

ENVIRONMENT & NATURAL RES.

Name of Committee: _____ Date: APRIL 30, 2009

1. Name: Reese Miller
   County: Wake
   Sponsor: Stam
2. Name: Michelle Mann
   County: Alamance
   Sponsor: Allred
   Name: _____
   County: _____
   Sponsor: _____
4. Name: _____
   County: _____
   Sponsor: _____
5. Name: _____
   County: _____
   Sponsor: _____

Sgt-At-Arms

1. Name: FRED HINES KEN BURROUGHS
2. Name: FRANK PREVO
3. Name: ROD FINKER
4. Name: YOUNG BAE

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE MEETING

May 5, 2009
12:00 NOON
Room 643 LOB

Representative Lucy T. Allen, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

HB 239 - Disapprove Jordan Lake Rules
Primary Sponsors: Allen, Gibson, and Bordsen

HB 1490 - Extend Permits Regarding Land Development
Primary Sponsors: Rep. Ty Harrell, Goforth, Dollar, Tillis

HB 617 - Limit Outside Work for DENR/Local Staff
Primary Sponsor: Allen

HB 1196 - State Nat. & Hist. Pres. Addns. & Del.
Primary Sponsor: Rep. England

ADJOURNMENT

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

May 5, 2009

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Tuesday, May 5, 2009, in room 643 of the Legislative Office Building. Representative Lucy T. Allen presided. Members present were: Representatives Gillespie, Harrison, Justice, Tarleton, and Underhill, Vice-Chairs; Representatives K. Alexander, Blackwood, Floyd, Gibson, Haire, Killian, Luebke, Martin, McComas, McElraft, Samuelson, Stiller, Tucker, West, and Womble.

Representative Allen called the meeting to order at 12:00 noon. She began by introducing the pages: Darby Cox, Buncombe County (sponsored by Representative Gillespie) and Jacob Searcy, Rutherford County (sponsored by Representative England). She next presented the Sergeant-at-arms staff: Fred Hines, Frank Prevo, Carlton Adams, Charles Coker, and Henry Worth.

Representative Allen began by noting that HB 617 had been withdrawn from the day's agenda, to be rescheduled at a later date.

The first bill for consideration was HB 239 – A BILL TO BE ENTITLED AN ACT TO DISAPPROVE THE JORDAN WATER SUPPLY NUTRIENT STRATEGY RULES. Representative Allen asked Representative Tarleton to assume the chair so that she and Representative Gibson could present the bill to the committee. Representative Tarleton set forth ground rules to follow for the final consideration of this piece of legislation. He indicated that no speakers would be heard at this meeting, that questions and comments would be limited to members of the committee, and that no amendments to the bill would be accepted since the bill, if passed, would be sent to the House Judiciary I Committee, at which time speakers could be heard and changes could be made. He indicated that the committee would be voting on the bill at approximately 12:30. At this point, a proposed committee substitute was distributed. Representative Alexander made a motion, which passed without objection, that the PCS be before the committee for consideration. Representatives Allen and Gibson were then recognized to present the bill. Following their remarks, Jeff Hudson, Committee Counsel, was invited to explain the changes incorporated in the PCS.

Representative Tarleton opened the floor for questions and comments from committee members. Questions regarding the sources of the nitrogen, the length of the time period allotted, compliance requirements, and opinions of affected municipalities with regard to the PCS were presented. Representatives Allen and Gibson, Jeff Hudson, Rich Gannon with the Division of Water Quality at the Department of Environment and Natural Resources, Steve Levitis from the City of Durham, and Elizabeth Outz with Environment North Carolina addressed these questions and concerns. Representative Haire requested that the bill be tabled until input could be gathered from entities affected by the proposed legislation. Because several other members also had concerns, Representative Haire

made a motion that the proposed committee substitute be reported without prejudice from the Environment and Natural Resources Committee and be referred to the Committee on Judiciary I. The motion passed unanimously.

Representative Allen resumed the chair and announced that the next bill on the agenda would be HB 1490 – A BILL TO BE ENTITLED AN ACT TO EXTEND CERTAIN PERMITS AND APPROVALS AFFECTING THE PHYSICAL DEVELOPMENT OF REAL PROPERTY LOCATED WITHIN THE STATE OF NORTH CAROLINA, THEREBY SUPERSEDING ALL STATUTORY AND REGULATORY REQUIREMENTS TO THE CONTRARY. The bill's primary sponsor, Representative Harrell, was recognized to present the bill. Amendment number 1 (copy attached) was distributed to the committee. Representative Harrell indicated that this was merely a technical correction. Representative Blackwood made a motion for acceptance of the amendment. This motion passed without objection. At that time, amendment number 2 (copy attached) was presented to the committee. Jennifer Mundt, Committee Analyst, explained the changes the amendment would make to the bill. Representative Blackwood made a motion for acceptance of this amendment. This motion also carried without objection. Following Representative Harrell's remarks, Representative Allen opened the floor for questions from committee members. In the absence of questions, Representative Killian made a motion for a favorable report for a proposed committee substitute, which would incorporate the two amendments, unfavorable to the original bill, and a recommendation that the bill be referred to the Committee on Commerce, Small Business, and Entrepreneurship. This motion passed unanimously.

The last bill on the agenda was HB 1196 – A BILL TO BE ENTITLED AN ACT TO DEDICATE AND ACCEPT CERTAIN PROPERTIES AS PART OF THE STATE NATURE AND HISTORIC PRESERVE AND TO REMOVE CERTAIN LANDS FROM THE STATE NATURE AND HISTORIC PRESERVE. A proposed committee substitute for HB 1196 was distributed. Representative Tucker made a motion, which received unanimous approval, to place the PCS before the committee. Representative Gibson was recognized to present the bill in the absence of the bill's primary sponsors. He called on Jennifer McGinnis, Committee Counsel, to add to his explanation. One question from Representative Tarleton was addressed, then the Chair called for a vote. Representative Tarleton moved for a favorable report as to the committee substitute bill, unfavorable to the original bill, and recommendation that the PCS be referred to the Committee on Finance. This motion passed without objection.

With no further business to come before the committee, the meeting was adjourned at 12:45 p.m.

Respectfully submitted,

Lucy T. Allen

Representative Lucy T. Allen, Chair

Shara Graham

Shara Graham, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 239
PROPOSED COMMITTEE SUBSTITUTE H239-PCS10888-SB-5

Short Title: Restore Water Quality in Jordan Reservoir. (Public)

Sponsors:

Referred to:

February 23, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR IMPROVEMENTS IN THE MANAGEMENT OF THE JORDAN WATERSHED IN ORDER TO RESTORE WATER QUALITY IN THE JORDAN RESERVOIR.

The General Assembly of North Carolina enacts:

SECTION 1. Definitions. – The following definitions apply to this act and its implementation:

(1) The definitions set out in G.S. 143-212 and G.S. 143-213.

(2) The definitions set out in 15A NCAC 02B .0262 (Jordan Water Supply Nutrient Strategy: Purpose and Scope) and 15A NCAC 02B .0263 (Jordan Water Supply Nutrient Strategy: Definitions).

(3) "Division" means the Division of Water Quality in the Department of Environment and Natural Resources.

(4) "Existing Development Rule 15A NCAC 02B .0266" means 15A NCAC 02B .0266 (Jordan Water Supply Nutrient Strategy: Stormwater Management for Existing Development), adopted by the Commission on May 8, 2008, and approved by the Rules Review Commission on November 20, 2008.

(5) "Wastewater Discharge Rule 15A NCAC 02B .0270" means 15A NCAC 02B .0270 (Jordan Water Supply Nutrient Strategy: Wastewater Discharge Requirements) adopted by the Commission on May 8, 2008, and approved by the Rules Review Commission on October 16, 2008.

SECTION 2.(a) Wastewater Discharge Rule 15A NCAC 02B .0270. – Until the effective date of the revised permanent rule that the Commission is required to adopt pursuant to Section 2(c) of this act, the Commission and the Department shall implement the Wastewater Discharge Rule 15A NCAC 02B .0270, as provided in Section 2(b) of this act.

SECTION 2.(b) Implementation. – Notwithstanding sub-subdivision (c) of subdivision (6) of Wastewater Discharge Rule 15A NCAC 02B .0270, each existing discharger with a permitted flow greater than or equal to 0.1 million gallons per day (MGD) shall limit its total nitrogen discharge to its active individual discharge allocation as defined or modified pursuant to Wastewater Discharge Rule 15A NCAC 02B .0270 no later than calendar year 2016.

SECTION 2.(c) Additional Rule-Making Authority. – The Commission shall adopt a rule to replace Wastewater Discharge Rule 15A NCAC 02B .0270. Notwithstanding

G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 2(b) of this act. Rules adopted pursuant to this section are not subject to G.S. 150B-21.9 through G.S. 150B-21.14. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 3.(a) Existing Development Rule 15A NCAC 02B .0266 Disapproved. – Pursuant to G.S. 150B-21.3(b1), Existing Development Rule 15A NCAC 02B .0266, as adopted by the Environmental Management Commission on May 8, 2008, and approved by the Rules Review Commission on November 20, 2008, is disapproved.

SECTION 3.(b) References in the North Carolina Administrative Code to the rule cited in Section 3(a) of this act shall be deemed to refer to the equivalent provisions of this act.

SECTION 3.(c) Nutrient Monitoring. – The Department shall maintain an ongoing program to monitor water quality in each arm of Jordan Reservoir. The Department shall also accept water quality sampling data from a monitoring program implemented by a local government or nonprofit organization if the data meets quality assurance standards established by the Department. On March 1, 2014, the Department shall report the results of monitoring in each arm of Jordan Reservoir to the Environmental Review Commission. The Department shall submit an updated report under this section every three years thereafter until such time as the lake is no longer impaired by nutrient pollution.

SECTION 3.(d) Control of Nutrient Loading From Existing Development. – The Department shall require implementation of reasonable nutrient load reduction measures for existing development in each arm of the Jordan Reservoir, as provided in this act. The Department shall determine whether nutrient load reduction measures for existing development are necessary in each subwatershed of Jordan Reservoir and require implementation of reasonable nutrient reduction measures in accordance with an adaptive management program as follows:

(1) Stage 1 Adaptive Management Program to Control Nutrient Loading From Existing Development. –

a. Municipalities and counties located in whole or in part in the Jordan watershed shall implement a Stage 1 adaptive management program to control nutrient loading from existing development in the Jordan watershed. The Stage 1 adaptive management program shall meet the requirements set out in 40 C.F.R. § 122.34 as applied by the Department in the NPDES General Permit for municipal separate storm sewer systems in effect on July 1, 2009. The Stage 1 adaptive management program shall include all of the following measures:

1. A public education program to inform the public of the impacts of nutrient loading and measures that can be implemented to reduce nutrient loading from stormwater runoff from existing development.
2. A mapping program that includes major components of the municipal separate storm sewer system, including the location of all outfalls and the names and location of all waters of the United States that receive discharges from those outfalls, land use types, and location of sanitary sewers.
3. A program to identify and remove illegal discharges.
4. A program to identify opportunities for retrofits and other projects to reduce nutrient loading from existing developed lands.
5. A program to ensure maintenance of best management practices implemented by the local government.

b. The Department shall accept local government implementation of another stormwater program or programs meeting the standards set out in this section as satisfying one or more of the requirements set forth in sub-subdivision a. of this subdivision. The local government shall provide technical information sufficient to demonstrate the adequacy of the alternative program or program elements.

c. A Stage 1 adaptive management program to control nutrient loading from existing development shall be implemented as follows:

1. No later than December 31, 2009, each local government shall submit its Stage 1 adaptive management program to the Commission for review and approval.

2. Within six months following submission of a Stage 1 adaptive management program, the Division shall recommend that the Commission approve or disapprove the program. The Commission shall either approve the program or require changes based on the standards set out in sub-subdivision a. of this subdivision. If the Commission requires changes, the local government shall submit revisions responding to the required changes within two months and the Department shall provide follow-up recommendations to the Commission within two months after receiving revisions.

3. Within three months following Commission approval of a Stage 1 adaptive management program, the local government shall begin implementation of the program. Each local government shall report annually to the Department on implementation of its program.

(2) Stage 2 Adaptive Management Program to Control Nutrient Loading From Existing Development. –

a. If the March 1, 2017, report or any subsequent monitoring report for an arm of Jordan Reservoir required under Section 3(c) of this act does not show measurable reductions in nitrogen and phosphorus, a municipality or county located in whole or in part in the subwatershed of that arm of Jordan Reservoir shall implement a Stage 2 adaptive management program to control nutrient loading from existing development in the Jordan watershed, as provided in this act.

b. The Department shall establish a load reduction goal for existing development for each municipality and county required to implement a Stage 2 adaptive management program to control nutrient loading from existing development. The load reduction goal shall be designed to achieve an eight percent (8%) reduction in nitrogen loading of surface water from existing development and a five percent (5%) reduction in phosphorus loading of surface water from existing development relative to the baseline period 1997 through 2001 and reaching Jordan Reservoir from existing developed lands within the municipal limits or county boundary. The baseline load shall be calculated by applying the Tar-Pamlico Nutrient Export Calculation Worksheet, Piedmont Version, dated October 2004, to acreages of different types of existing development within the local government planning jurisdiction during the baseline period. The baseline load may also be calculated according to any similar process

developed by the Division and recommended by the Scientific Advisory Board established pursuant to Section 4(a) of this act. The baseline load for a municipality or county shall not include nutrient loading from lands under State or federal control or lands in agriculture or forestry. The load reduction goal shall be adjusted to account for nutrient loading increases from lands developed subsequent to the baseline period but prior to implementation of new development stormwater programs.

c. Based on findings under sub-subdivisions a. and b. of this subdivision, the Department shall notify the local governments in each subwatershed that either:

1. Implementation of a Stage 2 adaptive management program to control nutrient loading from existing development will be necessary to achieve water quality standards in an arm of the reservoir and direct the municipalities and counties in the subwatershed to develop a load reduction program in compliance with this section.
2. Implementation of a Stage 2 adaptive management program to control nutrient loading from existing development is not necessary at that time but will be reevaluated in three years based on the most recent water quality monitoring information.

d. A local government receiving notice of the requirement to develop a Stage 2 adaptive management program to control nutrient loading from existing development under this section shall not be required to submit a program if the local government demonstrates that it has already achieved the reductions in nutrient loadings required by sub-subdivision b. of this subdivision.

e. Within one year after receiving notice to develop and implement a Stage 2 adaptive management program to control nutrient loading from existing development, each local government shall submit to the Commission a program that is designed to achieve the reductions in nutrient loadings established by the Division pursuant to sub-subdivision b. of this subdivision. A local government program may include nutrient management strategies that are not included in the model program developed pursuant to Section 3(c) of this act in addition to or in place of any component of the model program. In addition, a local government may satisfy the requirements of this subdivision through reductions in nutrient loadings from other sources under the control or ownership of the local government to the extent those reductions go beyond measures otherwise required by statute or rule. A local government may also work with other local governments within the same subwatershed to collectively meet the required reductions in nutrient loadings from existing development within their combined jurisdictions. Any credit for reductions achieved or obtained outside of a local government's planning jurisdiction shall be adjusted based on transport factors established by the Department document Nitrogen and Phosphorus Delivery from Small Watersheds to Jordan Lake, dated June 30, 2002.

f. Within six months following submission of a local government's Stage 2 adaptive management program to control nutrient loading

from existing development, the Division shall recommend that the Commission approve or disapprove the program. The Commission shall either approve the program or require changes based on the standards set out in sub-subdivision e. of this subdivision. If the Commission requires changes, the local government shall submit program revisions within two months, and the Division shall provide follow-up recommendations to the Commission within three months after receiving revisions. The Commission shall not require a local government to:

1. Install or require installation of a new stormwater collection system in an area of existing development unless the area is being redeveloped.
2. Acquire property for purposes of reducing built upon area within an existing development.

g. Within three months after the Commission's approval of a Stage 2 adaptive management program to control nutrient loading from existing development, the local government shall complete adoption and begin implementation of its program.

h. Each local government implementing a Stage 2 adaptive management program to control nutrient loading from existing development shall submit an annual report to the Division summarizing its activities in implementing its program.

i. If at any time the Department finds, based on water quality monitoring, that an arm of the Jordan Reservoir has achieved compliance with water quality standards, the Department shall notify the local governments in the subwatershed. Subject to the approval of the Commission, a local government may modify its Stage 2 adaptive management program to control nutrient loading from existing development to maintain only those measures necessary to prevent increases in nutrient loading from existing development.

SECTION 3.(e) Model Stage 2 Adaptive Management Program to Control Nutrient Loading From Existing Development. –

(1) No later than December 31, 2014, the Department shall submit a model Stage 2 adaptive management program to control nutrient loading from existing development to the Commission for approval. In developing the model program, the Department shall consider the findings and recommendations of the Scientific Advisory Board established pursuant to Section 4(a) of this act and comments submitted by municipalities and counties identified in 15A NCAC 02B .0262(7) (Jordan Water Supply Nutrient Strategy: Purpose and Scope). The Commission shall review the model program and either approve the program or return it to the Department with requested changes. The Department shall revise the model program to address changes requested by the Commission. The Commission shall approve a final model program no later than December 31, 2015.

(2) The model Stage 2 adaptive management program to control nutrient loading from existing development shall be designed to achieve an eight percent (8%) reduction in nitrogen loading of surface water from existing development and a five percent (5%) reduction in phosphorus loading of surface water from existing development relative to the baseline period 1997 through 2001 and reaching Jordan Lake from existing developed lands within each of the three subwatersheds. The model Stage 2 adaptive

management program to control nutrient loading from existing development shall identify specific load reduction practices and programs and reduction credits associated with each practice or program.

SECTION 3.(f) Additional Measures to Reduce Nutrient Loading From Existing Development in the Upper New Hope Creek Arm of the Jordan Reservoir. – If the Department finds that the Upper New Hope Creek Arm of the Jordan Reservoir has not achieved water quality standards by March 1, 2025, the Department, in consultation with the Scientific Advisory Board established pursuant to Section 4(a) of this act and after opportunity for comment by affected local governments, shall determine whether additional measures to reduce nutrient loading from existing development in the Upper New Hope Creek Arm of the Jordan Reservoir are feasible, taking into consideration the practicality of implementation and cost.

(1) If the Department finds that additional reductions are feasible, it shall develop a model Stage 3 adaptive management program to control nutrient loading from existing development no later than September 1, 2025. The Department shall develop the Stage 3 model program in consultation with the Science Advisory Board established pursuant to Section 4(a) of this act and after opportunity for comment by the affected local governments. The Stage 3 model program shall be designed to achieve a level of additional load reduction from existing development that is practicable, taking into consideration cost and benefits in the form of water quality improvement. Upon approval of the model Stage 3 program by the Commission, the Department shall notify local governments of the requirement to implement the model program or a program that achieves the same level of additional nutrient loading reductions. Submission, review and approval, and implementation of a Stage 3 program shall follow the process and timeline set out in sub-subdivisions e. through g. of subdivision (2) of Section 3(d) of this act.

(2) If the Department finds that additional reductions are not feasible, the Department may initiate alternative regulatory actions, which may include the development of a variance or site-specific water quality standards.

SECTION 3.(g) Enforcement. – The Department shall enforce the provisions of this act as provided in G.S. 143-215.6A, 143-215.6B, and 143-215.6C.

SECTION 3.(h) Collective Compliance. – Local governments that are subject to regulation under this act may establish collective programs to comply with the requirements of this act.

SECTION 3.(i) Report. – The Division shall report annually to the Commission regarding the implementation of adaptive management programs to control nutrient loading from existing development in the Jordan watershed.

SECTION 3.(j) Additional Rule-Making Authority. – The Commission shall adopt a rule to replace Sections 3(c) through 3(i) of this act. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Sections 3(c) through 3(f) of this act. Rules adopted pursuant to this section are not subject to G.S. 150B-21.9 through G.S. 150B-21.14. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 4.(a) Scientific Advisory Board for Nutrient-Impaired Waters Established. – No later than July 1, 2010, the Secretary shall establish a Nutrient Sensitive Waters Scientific Advisory Board. The Scientific Advisory Board shall consist of no fewer than five and no more than 10 members with the following expertise or experience:

(1) Representatives of one or more local governments in the Jordan Reservoir watershed. Local government representatives shall have experience in

stormwater management, flood control, or management of a water or wastewater utility.

(2) One member with at least 10 years of professional or academic experience relevant to the management of nutrients in impaired water bodies and possessing a graduate degree in a related scientific discipline, such as aquatic science, biology, chemistry, geology, hydrology, environmental science, engineering, economics, or limnology.

(3) One professional engineer with expertise in stormwater management, hydrology, or flood control.

(4) One representative of the Department of Transportation with expertise in stormwater management.

(5) One representative of a conservation organization with expertise in stormwater management, urban landscape design, nutrient reduction, or water quality.

SECTION 4.(b) Duties. – No later than July 1, 2012, the Scientific Advisory Board shall do all of the following:

(1) Identify management strategies that can be used by local governments to reduce nutrient loading from existing development.

(2) Evaluate the feasibility, costs, and benefits of implementing the identified management strategies.

(3) Develop an accounting system for assignment of nutrient reduction credits for the identified management strategies.

(4) Identify the need for any improvements or refinements to modeling and other analytical tools used to evaluate water quality in nutrient-impaired waters and nutrient management strategies.

SECTION 4.(c) Report; Miscellaneous Provisions. – The Scientific Advisory Board shall also advise the Secretary on any other issue related to management and restoration of nutrient-impaired water bodies. The Scientific Advisory Board shall submit an annual report to the Secretary no later than July 1 of each year concerning its activities, findings, and recommendations. Members of the Scientific Advisory Board shall be reimbursed for reasonable travel expenses to attend meetings convened by the Department for the purposes set out in this section.

SECTION 5. No Preemption. – A local government may adopt and implement a stormwater management program that contains provisions that are more restrictive than the standards set forth in Sections 2 and 3 of this act or in any rules concerning stormwater management in the Jordan watershed adopted by the Commission. This section shall not be construed to authorize a local government to impose stormwater management requirements on lands in agriculture or forestry.

SECTION 6. Construction of Act. –

(1) Except as specifically provided in Sections 2(c) and 3(j) of this act, nothing in this act shall be construed to limit, expand, or otherwise alter the authority of the Commission or any unit of local government.

(2) This act shall not be construed to affect any delegation of any power or duty by the Commission to the Department or subunit of the Department.

SECTION 7. Note to Revisor of Statutes. – Notwithstanding G.S. 164-10, the Revisor of Statutes shall not codify any of the provisions of this act. The Revisor of Statutes shall set out the text of Section 2 of this act as a note to G.S. 143-215.1 and may make notes concerning this act to other sections of the General Statutes as the Revisor of Statutes deems appropriate. The Revisor of Statutes shall set out the text of Section 3 of this act as a note to G.S. 143-214.7 and may make notes concerning this act to other sections of the General Statutes as the Revisor of Statutes deems appropriate.

SECTION 8. Effective Date. – This act is effective when it becomes law.

HOUSE BILL 239:
Disapprove Jordan Lake Rules

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Judiciary I	**Date:**	May 5, 2009
Introduced by:	Representatives Allen, Gibson, Bordsen	**Prepared by:**	Jeff Hudson Committee Counsel
Analysis of:	PCS to First Edition H239-PCS50641-SB-25		

SUMMARY: ***The Proposed Committee Substitute for House Bill 239 would establish a calendar year 2016 compliance date for the Jordan Water Supply Nutrient Strategy for Wastewater Discharge Requirements rule; disapprove the Jordan Water Supply Nutrient Strategy for Stormwater Management of Existing Development rule; and provide an alternative process for managing stormwater from existing development in the Jordan watershed.***

[As introduced, this bill was identical to S166, as introduced by Sen. Foriest, which is currently in Rules and Operations of the Senate.]

BACKGROUND:

Jordan Lake is located in the piedmont region of central North Carolina in the upper Cape Fear River Basin. Its watershed contains large portions of the urbanized Triangle and Triad regions as well as significant agricultural lands. The Lake was created in 1983 for the purposes of flood control, downstream water quality, fish and wildlife conservation, recreation, and water supply.

Jordan Lake has been consistently rated as eutrophic or hyper-eutrophic since its impoundment in 1983. "Eutrophic" is an over-abundance of nutrients in the lake, primarily nitrogen and phosphorus, which may result in algal blooms and poor water quality. Nutrients make their way to the lake from sources such as wastewater discharges, rainfall runoff from agriculture, and stormwater runoff from new and existing developed lands throughout the entire Jordan watershed. Excessive nutrient inputs drive excessive growth of microscopic algae, which imparts a greenish, murky appearance to the water, causes taste and odor problems in potable water, and robs the water of oxygen, stressing or killing fish and other aquatic life. While not necessarily making the lake unfit for fishing, swimming, or drinking uses, excess nutrients are impacting these uses, and undesirable algae are present in the lake.

The State began taking actions to address the nutrient problems early in the lake's history. The Environmental Management Commission (EMC) designated the Reservoir a Nutrient Sensitive Water (NSW) the year of its impoundment, and imposed phosphorus limits on wastewater dischargers. The lake did not respond to these controls, and in 2002, the EMC determined that the Upper New Hope arm was impaired after it exceeded the State's chlorophyll-a standard. The rest of the lake exceeded the standard in 2006. (Chlorophyll-a is used as an indicator of excess nutrients in waterbodies.)

Several pieces of legislation directed the EMC to address Jordan Lake's impairment. The Clean Water Responsibility Act of 1997 required the EMC to establish improvement goals for nutrient-impaired waters, and to develop and implement management plans that entail sharing of responsibility for reducing nutrient inputs to these waters between point sources and nonpoint sources in a fair, reasonable, and proportionate manner. Session Law 2005-190 directed the EMC to adopt permanent rules to establish and implement nutrient management strategies to protect drinking water supply reservoirs. In addition, requirements of the federal Clean Water Act were set in motion when the lake became impaired, including the need to set load reduction limits for point and nonpoint sources and to enforce discharger limits.

To comply with the Clean Water Responsibility Act of 1997, Haw wastewater dischargers developed a reservoir model in the late 1990s to estimate the lake's nutrient reduction needs. The EMC approved a reservoir model in 2002. Beginning in 2003, the Division of Water Quality (Division) in the Department of Environment and Natural Resources (DENR) conducted a 1½-year stakeholder meeting process, facilitated by the Triangle J Council of Governments, to seek consensus on nutrient loading goals, discharge allocation methods, and a conceptual nonpoint source strategy. In 2005, the Division held public meetings and solicited public comments on a rules framework. The Division then drafted a set of rules, and held technical stakeholder meetings through 2006 that resulted in rule refinements.

The formal rule-making process began when the rules were published on June 15, 2007, and a 90-day public comment period followed. This included three public hearings held in different locations in the watershed. Following the comment period, five Hearing Officers, all members of the EMC, deliberated for eight months over changes needed to address the comments received. The EMC adopted a revised set of rules in May, 2008.

In June 2008, the rules were brought before the Rules Review Commission (RRC). The RRC reviewed and approved the rules over the course of five meetings, with the last approvals on November 20, 2008. A large number of technical changes were made to the rules in response to objections from the RRC, but the content of the rules remained essentially unchanged.

The RRC received a sufficient number of objection letters to the rules to necessitate their review by the General Assembly during its 2009 Regular Session. Several disapproval bills were introduced, including House Bill 239, introduced by Representatives Allen, Gibson, and Bordsen. If one of the disapproval bills becomes law as introduced, the entire set of rules will not become effective. If no action is taken by the General Assembly on a disapproval bill, the rules will be become effective upon adjournment of the 2009 Regular Session. *(Background information excerpted from the website of the Division at: http://h2o.enr.state.nc.us/nps/JordanNutrientStrategy.htm.)*

BILL ANALYSIS:

Jordan Reservoir and Watershed

The watershed that drains into Jordan reservoir includes portions of the municipalities of Alamance, Apex, Burlington, Carrboro, Cary, Chapel Hill, Durham, Elon, Gibsonville, Graham, Green Level, Greensboro, Haw River, Kernersville, Mebane, Morrisville, Oak Ridge, Ossipee, Pittsboro, Pleasant Garden, Reidsville, Sedalia, Stokesdale, Summerfield, Wilsonville, and Whitsett and the Counties of Alamance, Caswell, Chatham, Durham, Guilford, Orange, Rockingham, and Wake.

Please refer to the following maps for more information about the Jordan Reservoir and its watershed:

- The map entitled "Jordan Lake and Its Watershed" shows the reservoir, its watersheds and subwatersheds, the municipalities and counties that lie in whole or in part in the watershed. and the area and percentage of each county's inclusion in the watershed.
- The map entitled "Jordan Reservoir Watershed" more clearly delineates the subwatersheds and includes the percentage reductions of nitrogen and phosphorus loading from existing development required by NCAC 02B .0270 (Jordan Water Supply Nutrient Strategy: Wastewater Discharge Requirements), adopted by the EMC on May 8, 2008, and approved by the RRC on October 16, 2008
- The third, untitled map more clearly shows the reservoir itself and the extent of its three arms.

(Maps from the website of the Division at: http://h2o.enr.state.nc.us/nps/JordanNutrientStrategy.htm.)

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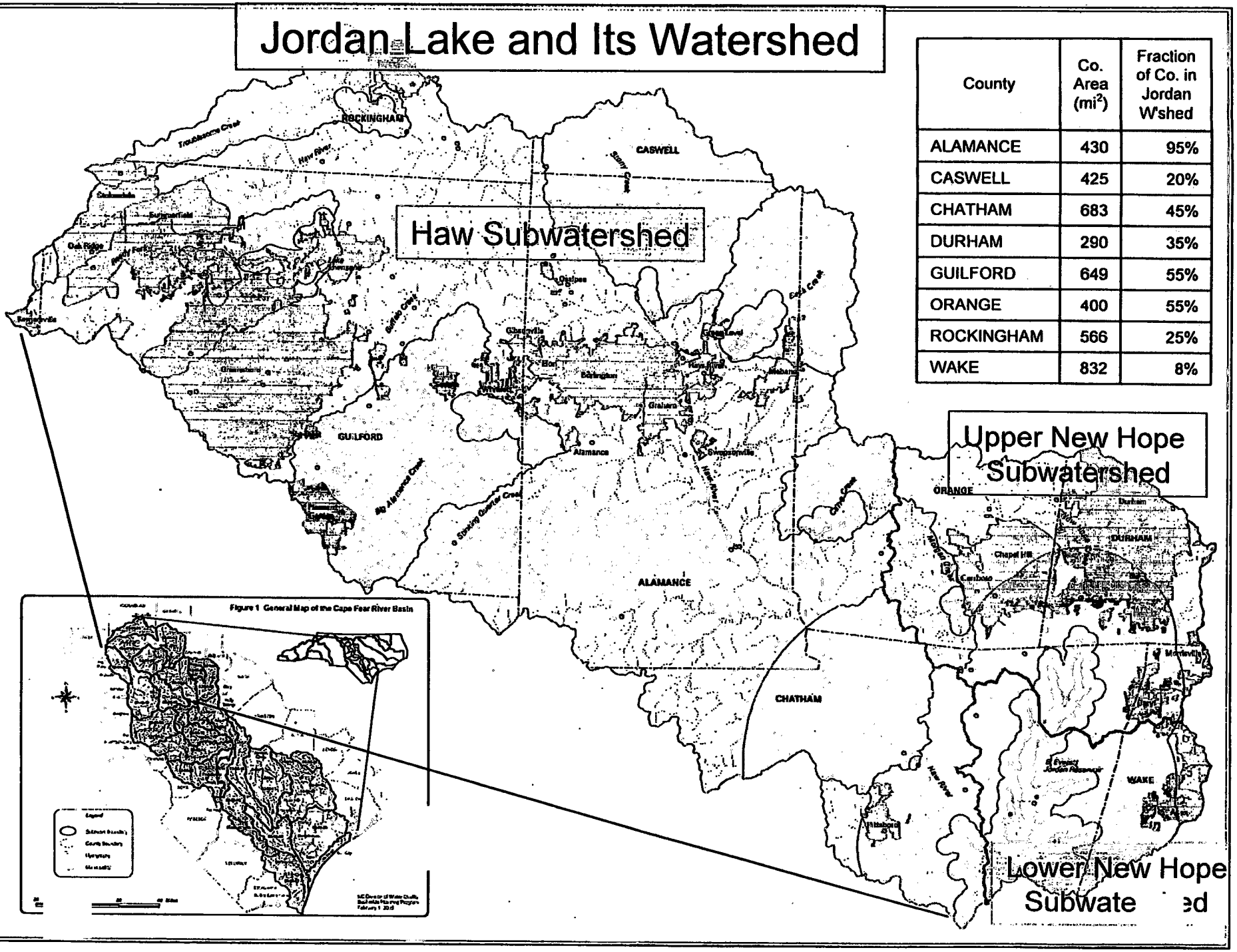
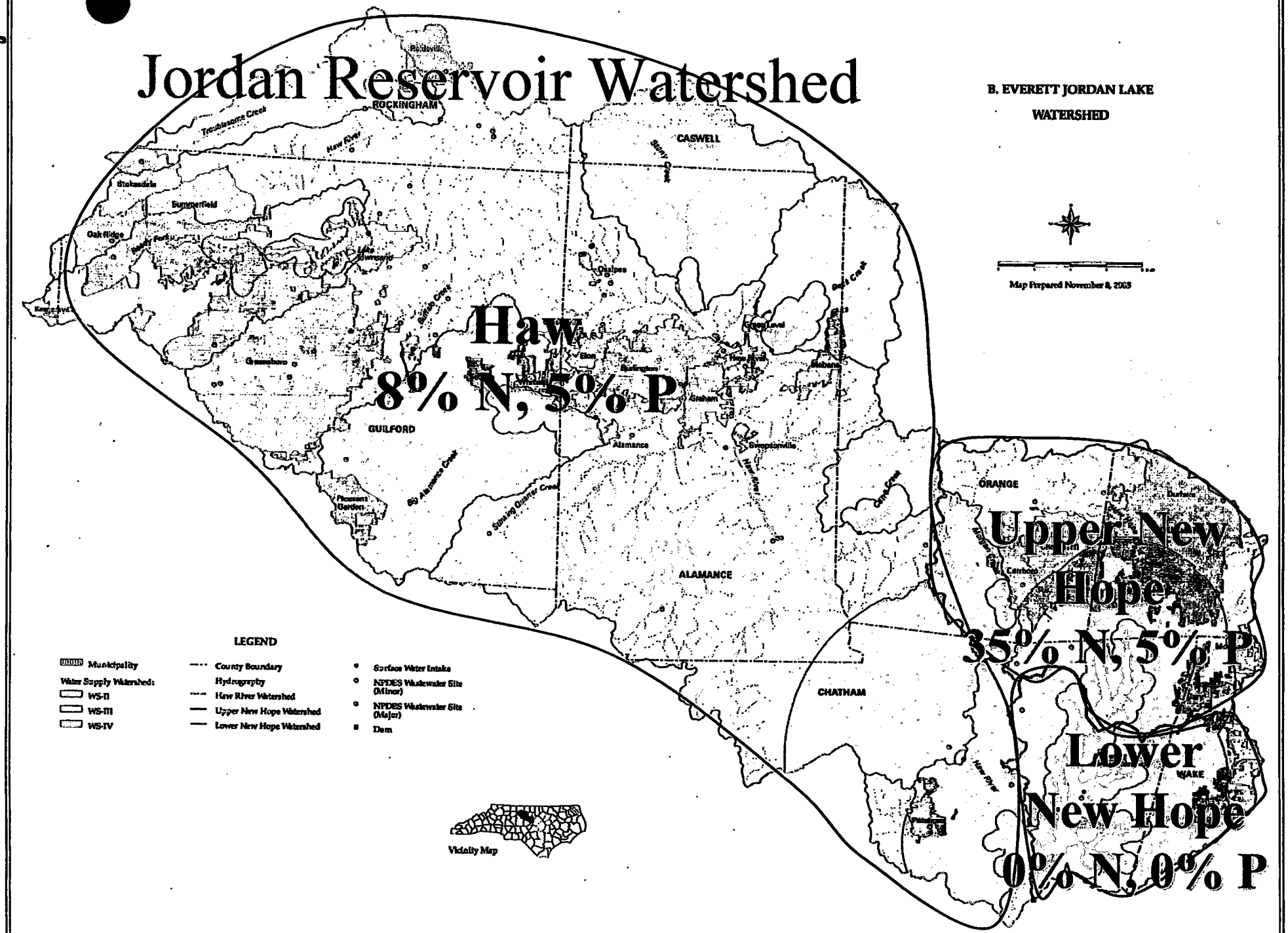
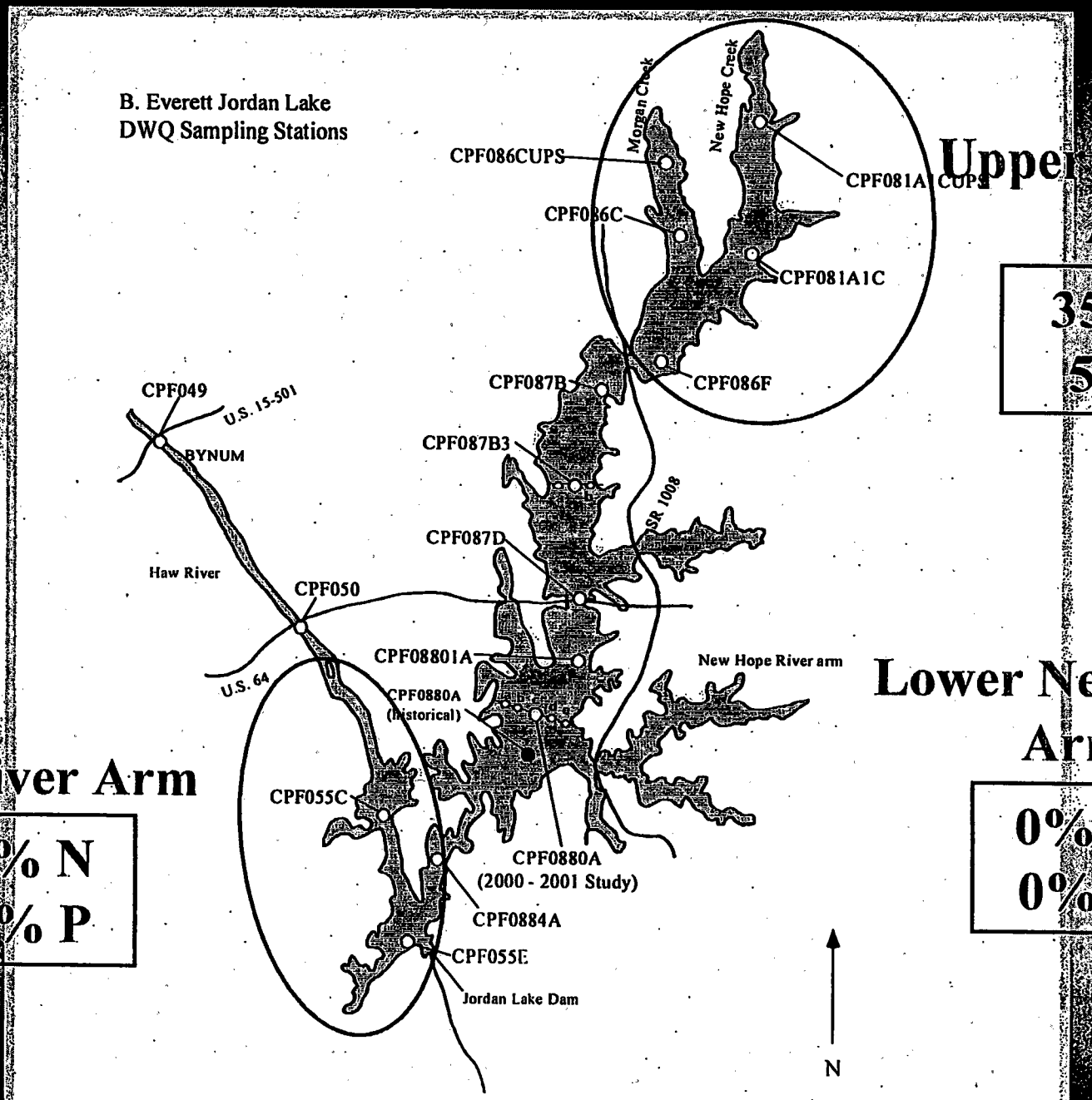
Jordan Lake and Its Watershed

County	Co. Area (mi^2)	Fraction of Co. in Jordan W'shed
ALAMANCE	430	95%
CASWELL	425	20%
CHATHAM	683	45%
DURHAM	290	35%
GUILFORD	649	55%
ORANGE	400	55%
ROCKINGHAM	566	25%
WAKE	832	8%




Jordan Reservoir Watershed
B. EVERETT JORDAN LAKE
WATERSHED
Map Prepared November 8, 2005
Haw
8% N, 5% P
Upper New
Hope
35% N, 5% P
Lower
New Hope
0% N, 0% P
ROCKINGHAM
CASWELL
GUILFORD
ALAMANCE
ORANGE
CHATHAM
WAKE
Troublesome Creek
New River
Stony Creek
Stokesdale
Summerfield
Oak Ridge
Reedy Fork
Lake Brandt
Lake Townsville
Haw River
Dixon
Burlington
Graham
Mebane
Gibsonville
Greensboro
Alamance
Snow Camp
Birch Creek
Big Alamance Creek
Stinking Quarter Creek
Cane Creek
Morgan Creek
Jordan Lake
Pittsboro
Gold Creek
Pleasant Garden
LEGEND
Municipality
Water Supply Watersheds:
WS-II
WS-III
WS-IV
County Boundary
Hydrography
Haw River Watershed
Upper New Hope Watershed
Lower New Hope Watershed
Surface Water Intake
NPDES Wastewater Site (Minor)
NPDES Wastewater Site (Major)
Dam
Vicinity Map



Upper New Hope Arm

35% N
5% P

Lower New Hope Arm

0% N
0% P

Haw River Arm

8% N
5% P

Compliance Date for Wastewater Discharge Rule

Under 15A NCAC 02B .0270 (Jordan Water Supply Nutrient Strategy: Wastewater Discharge Requirements), adopted by the EMC on May 8, 2008, and approved by the RRC on October 16, 2008 (Wastewater Discharge Rule), each existing wastewater discharger with a permitted flow of greater than or equal to one hundred thousand (100,000) gallons per day would have to limit its total nitrogen discharge as provided under the rule no later than calendar year 2014.

The Proposed Committee Substitute for House Bill 239 (PCS) would establish a calendar year 2016 compliance date for the Wastewater Discharge Rule. The PCS would also direct the EMC to adopt a rule to replace the Wastewater Discharge Rule that is substantively identical to the requirements of the PCS.

Existing Development Rule

Under 15A NCAC 02B .0266 (Jordan Water Supply Nutrient Strategy: Stormwater Management for Existing Development), adopted by the EMC on May 8, 2008, and approved by the RRC on November 20, 2008 (Existing Development Rule), and its accompanying rules, the following nutrient load reductions must be achieved for each arm of the Jordan Reservoir and its subwatershed.

	Upper New Hope Arm	Lower New Hope Arm	Haw Arm
Nitrogen	35% Reduction	0% Reduction	8% Reduction
Phosphorus	5% Reduction	0% Reduction	5% Reduction

Each local government in the Jordan watershed would have to identify the nutrient load reductions from existing development that it would need to achieve to satisfy the required nutrient reduction goals for its subwatershed. Local governments would have to develop long-range plans to implement nutrient load reductions from existing development, including overall compliance timeframes. These plans would be subject to EMC review and approval.

The Proposed Committee Substitute for House Bill 239 (PCS) would disapprove the Existing Development Rule and establish an alternative, phased-in process for achieving nutrient loading reductions from existing development as follows.

Nutrient Monitoring

The PCS would require DENR to maintain an ongoing program to monitor water quality in each arm of Jordan Reservoir. On March 1, 2014 and every three years thereafter, DENR would report the results of monitoring in each arm of Jordan Reservoir to the Environmental Review Commission (ERC).

Stage 1 Program to Control Nutrient Loading from Existing Development

The PCS would require municipalities and counties located in whole or in part in the Jordan watershed to implement a Stage 1 adaptive management program to control nutrient loading from existing development (Stage 1 program) in the Jordan watershed. The Stage 1 program would include all of the following measures:

A public education program to inform the public of the impacts of nutrient loading and measures that can be implemented to reduce nutrient loading from stormwater runoff from existing development.

- A mapping program that includes major components of the municipal separate storm sewer system, including the location of major outfalls and the names and location of all waters of the United States that receive discharges from those outfalls, land use types, and location of sanitary sewers.
- A program to identify and remove illegal discharges.
- A program to identify opportunities for retrofits and other projects to reduce nutrient loading from existing developed lands.
- A program to ensure maintenance of best management practices implemented by the local government.

A Stage 1 program would be subject to approval by the EMC.

Stage 2 Program to Control Nutrient Loading from Existing Development

If the March 1, 2017, or any subsequent monitoring report for an arm of Jordan Reservoir does not show that nutrient-related water quality standards are being achieved, a municipality or county located in whole or in part in the subwatershed of that arm would be required to develop and implement a Stage 2 adaptive management program to control nutrient loading from existing development in the Jordan watershed (Stage 2 program).

The Department could defer development and implementation of Stage 2 programs required in an arm of Jordan Reservoir if it determines that additional reductions in nutrient loading from existing development in that arm will not be necessary to achieve nutrient-related water quality standards. In making this determination, the Department would consider the anticipated effect of measures implemented or scheduled to be implemented to reduce nutrient loading from sources in the arm other than existing development. If any subsequent monitoring report for an arm of Jordan Reservoir shows that nutrient-related water quality standards have not been achieved, the Department would notify the municipalities and counties located in whole or in part in the subwatershed of that arm that they must develop and implement a Stage 2 program.

DENR would establish a load reduction goal for existing development for each municipality and county required to implement a Stage 2 program. The load reduction goal would be designed to achieve an eight percent (8%) reduction in nitrogen loading of surface water from existing development and a five percent (5%) reduction in phosphorus loading of surface water from existing development relative to the baseline period 1997 through 2001. The baseline load for a municipality or county could not include nutrient loading from lands under State or federal control or lands in agriculture or forestry.

DENR would notify the local governments in each subwatershed that either:

- Implementation of a Stage 2 program will be necessary to achieve water quality standards in an arm of the reservoir and direct the municipalities and counties in the subwatershed to develop a load reduction program.
- Implementation of a Stage 2 program will not be necessary at that time but will be reevaluated in three years based on the most recent water quality monitoring information.

A local government receiving notice of the requirement to develop and implement a Stage 2 program would not be required to submit a program if the local government demonstrates that it has already achieved the required reductions in nutrient loadings.

A Stage 2 program would be subject to approval by the EMC. The EMC must approve the program unless it finds that the local government can, through the implementation of reasonable and cost effective measures not included in the proposed program, meet the reductions in nutrient loading

ıblished by the Division by a date earlier than that proposed by the local government. If the EMC ___ds that there are additional or alternative reasonable and cost effective measures, the Commission could require the local government to modify its proposed program to include such measures to achieve the required reductions by the earlier date. In determining whether additional load reduction measures are reasonable and cost effective, the Commission would take into consideration, among other things, the increase in the per capita cost of a local government's stormwater management program that would be required to implement such measures and the cost per pound of nitrogen and phosphorus removed by such measures. The Commission could not require additional or alternative measures that would require a local government to:

- Install or require installation of a new stormwater collection system in an area of existing development unless the area is being redeveloped.
- Acquire developed private property.
- Reduce or require the reduction of impervious surfaces within an area of existing development unless the area is being redeveloped.

If at any time DENR finds that an arm of the Jordan Reservoir has achieved compliance with water quality standards, DENR would notify the local governments in the subwatershed. Subject to the approval of the EMC, a local government could modify its Stage 2 program to maintain only those measures necessary to prevent increases in nutrient loading from existing development.

The PCS would also require DENR to submit a model Stage 2 adaptive management program to control ---rient loading from existing development (model Stage 2 program) to the EMC for approval no later n December 31, 2014. The model Stage 2 program would identify specific load reduction practices and programs and reduction credits associated with each practice or program. DENR would consider the findings and recommendations of the Scientific Advisory Board and comments submitted by affected municipalities and counties. The EMC would approve a final model Stage 2 program no later than December 31, 2015.

Additional Measures to Control Nutrient Loading from Existing Development

If the March 1, 2026, report or any subsequent monitoring report for the Upper New Hope Creek Arm of Jordan Reservoir shows that nutrient-related water quality standards are not being achieved, a municipality or county located in whole or in part in the Upper New Hope Creek Subwatershed would be required to modify its Stage 2 program to achieve additional reductions in nitrogen loading from existing development. The modified Stage 2 adaptive management program would be designed to achieve a total reduction in nitrogen loading from existing development of thirty-five percent (35%) relative to the baseline period 1997 through 2001. The Department would notify local governments of the requirement to implement additional measures to reduce nitrogen loading. Submission, review and approval, and implementation of a modified Stage 2 program would follow the same process and timeline for the initial Stage 2 program.

One or more local governments located in whole or in part in the Upper New Hope Creek Subwatershed could request that the EMC initiate alternative regulatory actions authorized by State or federal law, including but not limited to the granting of a variance and the establishment of alternative water quality standards for the Upper New Hope Creek Arm of Jordan Reservoir.

forcement

ıne provisions in the PCS would be enforced through DENR's existing civil, criminal, and injunctive remedies for violations of water quality laws.

EMC to Adopt Substantively Identical Rule

The PCS would direct the EMC to adopt a rule to replace the Existing Development Rule that is substantively identical to the requirements of the PCS.

Scientific Advisory Board

The PCS would require the Secretary of Environment and Natural Resources to establish a Nutrient Sensitive Waters Scientific Advisory Board (Scientific Advisory Board) no later than July 1, 2010. The Scientific Advisory Board would consist of five to ten members with expertise and experience in stormwater management related issues. Under the PCS, the Scientific Advisory Board would have to do all of the following no later than July 1, 2012:

- Identify management strategies that can be used by local governments to reduce nutrient loading from existing development.
- Evaluate the feasibility, costs, and benefits of implementing the identified management strategies.
- Develop an accounting system for assignment of nutrient reduction credits for the identified management strategies.
- Identify the need for any improvements or refinements to modeling and other analytical tools used to evaluate water quality in nutrient-impaired waters and nutrient management strategies.

EFFECTIVE DATE: This act would become effective when it becomes law.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

HB 239 A BILL TO BE ENTITLED AN ACT TO DISAPPROVE THE JORDAN WATER SUPPLY NUTRIENT STRATEGY RULES.

☒ Without prejudice as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on JUDICIARY I.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

HOUSE BILL 1490*

Short Title:	Extend Permits Regarding Land Development.	(Public)
Sponsors:	Representatives Harrell, Goforth, Dollar, Tillis (Primary Sponsors); Burris-Floyd, Gillespie, Lewis, McCormick, McLawhorn, Neumann, Stam, Stewart, Tarleton, Wilkins, and Wray.	
Referred to:	Environment and Natural Resources, if favorable, Commerce, Small Business, and Entrepreneurship.	

April 13, 2009

A BILL TO BE ENTITLED

AN ACT TO EXTEND CERTAIN PERMITS AND APPROVALS AFFECTING THE PHYSICAL DEVELOPMENT OF REAL PROPERTY LOCATED WITHIN THE STATE OF NORTH CAROLINA, THEREBY SUPERSEDING ALL STATUTORY AND REGULATORY REQUIREMENTS TO THE CONTRARY.

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known and may be cited as the "Permit Extension Act of 2009."

SECTION 2. The General Assembly makes the following findings:

(1) There exists a state of economic emergency in the State of North Carolina and the nation, which has drastically affected various segments of the North Carolina economy, but none as severely as the State's banking, real estate, and construction sectors.

(2) The real estate finance sector of the economy is in severe decline due to the creation, bundling, and widespread selling of leveraged securities, such as credit default swaps, and due to excessive defaults on sub-prime mortgages and the resultant foreclosures on a vast scale, thereby widening the mortgage finance crisis. The extreme tightening of lending standards for home buyers and other real estate borrowers has reduced access to the capital markets.

(3) As a result of the crisis in the real estate finance sector of the economy, real estate developers and redevelopers, including homebuilders, and commercial, office, and industrial developers, have experienced an industry-wide decline, including reduced demand, cancelled orders, declining sales and rentals, price reductions, increased inventory, fewer buyers who qualify to purchase homes, layoffs, and scaled back growth plans.

(4) The process of obtaining planning board and zoning board of adjustment approvals for subdivisions, site plans, and variances can be difficult, time consuming, and expensive, both for private applicants and government bodies.

(5) The process of obtaining the myriad other government approvals, such as wetlands permits, treatment works approvals, on-site wastewater disposal permits, stream encroachment permits, flood hazard area permits, highway access permits, and numerous waivers and variances, can be difficult and

expensive; further, changes in the law can render these approvals, if expired or lapsed, difficult to renew or re-obtain.

(6) County and municipal governments, including local sewer and water authorities, obtain permits and approvals from State government agencies, particularly the Department of Environment and Natural Resources, which permits and approvals may expire or lapse due to the state of the economy and the inability of both the public sector and the private sector to proceed with projects authorized by the permit or approval.

(7) County and municipal governments also obtain determinations of master plan consistency, conformance, or endorsement with State or regional plans, from State and regional government entities that may expire or lapse without implementation due to the state of the economy.

(8) The current national recession has severely weakened the building industry, and many landowners and developers are seeing their life's work destroyed by the lack of credit and dearth of buyers and tenants, due to the crisis in real estate financing and the building industry, uncertainty over the state of the economy, and increasing levels of unemployment in the construction industry.

(9) The construction industry and related trades are sustaining severe economic losses, and the lapsing of government development approvals would exacerbate, if not addressed, those losses.

(10) Financial institutions that lent money to property owners, builders, and developers are experiencing erosion of collateral and depreciation of their assets as permits and approvals expire, and the extension of these permits and approvals is necessary to maintain the value of the collateral and the solvency of financial institutions throughout the State.

(11) Due to the current inability of builders and their purchasers to obtain financing, under existing economic conditions, more and more once-approved permits are expiring or lapsing and, as these approvals lapse, lenders must reappraise and thereafter substantially lower real estate valuations established in conjunction with approved projects, thereby requiring the reclassification of numerous loans which, in turn, affects the stability of the banking system and reduces the funds available for future lending, thus creating more severe restrictions on credit and leading to a vicious cycle of default.

(12) As a result of the continued downturn of the economy, and the continued expiration of approvals that were granted by State and local governments, it is possible that thousands of government actions will be undone by the passage of time.

(13) Obtaining an extension of an approval pursuant to existing statutory or regulatory provisions can be both costly in terms of time and financial resources and insufficient to cope with the extent of the present financial conditions; moreover, the costs imposed fall on the public as well as the private sector.

(14) Obtaining extensions of approvals granted by State government is frequently impossible, always difficult, and always expensive, and no policy reason is served by the expiration of these permits, which were approved only after thorough review of the application.

(15) It is the purpose of this act to prevent the wholesale abandonment of already approved projects and activities due to the present unfavorable economic conditions, by tolling the term of these approvals for a finite period of time

as the economy improves, thereby preventing a waste of public and private resources.

SECTION 3. Definitions. – As used in this act, the following definitions apply:

(1) Approval. – Except as otherwise provided in Section 4 of this act, any detailed statement by a State agency under G.S. 113A-4; any detailed statement submitted by a special-purpose unit of government or a private developer of a major development project under G.S. 113A-8; any finding of no significant impact prepared by a State agency under Article 1 of Chapter 113A of the General Statutes; any approval of an erosion and sedimentation control plan granted by a local government or by the North Carolina Sedimentation Control Commission under Article 4 of Chapter 113A of the General Statutes; any permit for major development or minor development, as defined in G.S. 113A-118, or any other permit issued under the Coastal Area Management Act (CAMA), Part 4 of Article 7 of Chapter 113A of the General Statutes; any building permit issued under Article 9 of Chapter 143 of the General Statutes; any discharge or nondischarge permit issued under Part 1 of Article 21 of Chapter 143 of the General Statutes; any stream origination certifications issued under Article 21 of Chapter 143 of the General Statutes; any water quality certification under Article 21 of Chapter 143 of the General Statutes; any air quality permit issued by the Environmental Management Commission under Article 21B of the General Statutes; any approval by a county of sketch plans, preliminary plats, plats regarding a subdivision of land, a site specific development plan or a phased development plan, a development permit, or a building permit under Article 18 of Chapter 153A of the General Statutes; any approval by a city of sketch plans, preliminary plats, or plats regarding a subdivision of land, a site specific development plan or a phased development plan, a development agreement, or a building permit under Article 19 of Chapter 160A of the General Statutes; any certificate of appropriateness issued by a preservation commission of a city under Part 3C of Article 19 of Chapter 160A of the General Statutes; when the approval under this subdivision pertains to the development of land and whether the approval under this subdivision is in the form of a permit, approval, license, certification, permission, determination, interpretation, exemption, variance, exception, waiver, letter of interpretation, no further action letter, agreement, or any other executive or administrative decision that allows the development to proceed.

(2) Area of environmental concern. – An area designated under G.S. 113A-113 by the Coastal Resources Commission.

(3) Development. – The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure or facility, or of any grading, soil removal or relocation, excavation or landfill, or any use or change in the use of any building or other structure or land or extension of the use of land.

(4) Extension period. – The period beginning January 1, 2007, and continuing through December 31, 2010.

(5) Government. – Any municipal, county, regional, or State government, or any agency, department, commission, or other instrumentality thereof.

(6) Substantially altered. – Any change to the plans regarding the approval under subdivision (1) of this section that does not constitute a "permit amendment" or a "new permit," including a change in ownership or

corporate structure of a permitted facility, a change to the permit that is the subject of the approval that increases by ten percent (10%) or more the population or the geographic area to be served by the development project, or a change in the category or characterization of the development project. As used in this subdivision, "permit" includes any license, certification, permission, determination, interpretation, exemption, variance, exception, waiver, letter of interpretation, no further action letter, agreement, or any other executive or administrative decision that allows a development or governmental project to proceed.

SECTION 4.(a) For any government approval in existence during the extension period, the running of the period of approval is automatically suspended for the extension period, except as otherwise provided hereunder; however, the tolling provided for herein shall not extend the government approval more than six months beyond the conclusion of the extension period. Nothing in this act shall shorten the duration that any approval would have had in the absence of this act, nor shall this act prohibit the granting of such additional extensions as are provided by law when the tolling granted by this act expires.

SECTION 4.(b) Nothing in this act shall be deemed to extend or purport to extend:

(1) Any permit or approval under Section 3 of this act when the permit or approval is for a development project that has been substantially altered since the permit or approval was granted, as determined by the government that granted the permit or approval.

(2) Any permit or approval issued by the government of the United States or any agency or instrumentality thereof, or to any permit or approval by whatever authority issued of which the duration of effect or the date or terms of its expiration are specified or determined by or pursuant to law or regulation of the federal government or any of its agencies or instrumentalities.

(3) Any permit or approval issued within an area of environmental concern.

(4) Any Department of Transportation permit other than a right-of-way permit.

SECTION 4.(c) This act shall not affect any administrative consent order issued by the Department of Environment and Natural Resources in effect or issued during the extension period.

SECTION 4.(d) Nothing in this act shall affect the ability of the Secretary of Environment and Natural Resources to revoke or modify a specific permit or approval, or extension thereof pursuant to this act, when that specific permit or approval contains language authorizing the modification or revocation of the permit or approval by the Department of Environment and Natural Resources. Nothing in this act shall affect the ability of the Environmental Management Commission to revoke or modify a specific permit or approval, or extension thereof pursuant to this act, when that specific permit or approval contains language authorizing the modification or revocation of the permit or approval by the Environmental Management Commission.

SECTION 4.(e) In the event that any approval tolled pursuant to this act is based upon the connection to a sanitary sewer system, the approval's extension shall be contingent upon the availability of sufficient capacity, on the part of the treatment facility, to accommodate the development whose approval has been extended. If sufficient capacity is not available, those permit holders whose approvals have been extended shall have priority with regard to the further allocation of gallonage over those approval holders who have not received approval of a hookup prior to the effective date of this act. Priority regarding the distribution of further gallonage to any permit holder who has received the extension of an approval pursuant to this act shall be allocated in order of the granting of the original approval of the connection.

SECTION 4.(f) Nothing in this act shall be construed or implemented in such a way as to modify any requirement of law that is necessary to retain federal delegation to, or assumption by, the State of the authority to implement a federal law or program.

SECTION 5. Each State agency shall, within 30 days after the effective date of this act, place a notice in the North Carolina Register tolling all approvals in conformance with this act.

SECTION 6. The provisions of this act shall be liberally construed to effectuate the purposes of this act.

SECTION 7. This act is effective when it becomes law.

HOUSE BILL 1490:
Extend Permits Regarding Land Development

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Commerce, Small Business, and Entrepreneurship	**Date:**	May 5, 2009
Introduced by:	Representatives Harrell, Goforth, Dollar, Tillis	**Prepared by:**	Jennifer Mundt Legislative Analyst
Analysis of:	First Edition		

SUMMARY: House Bill 1490 would extend the duration of certain permits and approvals affecting physical development of real property in the State

[As introduced, this bill was identical to S831, as introduced by Sen. Clodfelter, which is currently in Senate Commerce.]

BILL ANALYSIS: House Bill 1490 would extend the term of certain government-issued permits and approvals for a finite term. The bill would automatically suspend the running of a permit or approval that is in existence for the term January 1, 2007 through December 31, 2010 for:

- Environmental impact statements and findings of no significant impact required pursuant to the State Environmental Policy Act.
- Erosion and sedimentation control plan approvals granted by the North Carolina Sedimentation Control Commission or local government.
- Coastal Area Management Act (CAMA) major permits, minor permits, and any other permit issued under CAMA.
- Building permits issued under the State Building Code.
- Water discharge permits issued by the Department of Environment and Natural Resources (DENR).
- Stream origination certifications and water quality certifications issued by DENR.
- Air quality permits issued by the Environmental Management Commission (EMC).
- Approval of sketch plans, preliminary plats or plats regarding subdivision of land, site specific development plans or phased development plans, development agreements, or building permits issued by cities or counties.
- Certificates of appropriateness issued by a preservation commission of a city.

The suspension period for any permit or approval would not extend beyond June 30, 2011. The automatic extension authorized under this act would not apply to the following:

- Any permit or approval that has been substantially altered since the time when the permit or approval was granted (includes change of ownership or a change to the permit that increases by 10% or more the population or geographic area to be served by the development project).
- Permits issued by the federal government.
- Permits or approvals issued within an area of environmental concern as defined by CAMA.

- Department of Transportation permits other than a right-of-way permit.

The bill would not affect any administrative consent order issued by DENR in effect or issued during the extension. The Secretary of Environment and Natural Resources and the EMC may modify or revoke a specific permit or approval if the permit or approval provides for such modification or revocation.

The bill contains provisions for connections to sanitary sewer systems contingent on the availability of sufficient capacity. If sufficient capacity is not available, permit holders with approved extensions will have priority on additional capacity over approved holders who did not receive approval of a sanitary sewer connection prior to the effective date of this bill. Priority regarding the distribution of additional treatment capacity for permit holders receiving extensions will be allocated in order of the granting of the original approval of the connection.

EFFECTIVE DATE: This act is effective when it becomes law.

H1490-SMTA-29(e1) v1

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1490*

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

H1490-ATA-13 [v.2]

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Date _____,2009

Representative Harrell

moves to amend the bill on page 3, line 21,
by rewriting that line to read:

"Environmental Management Commission under Article 21B of Chapter 143 of the General".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1490*

AMENDMENT NO. 2
(to be filled in by Principal Clerk)

H1490-ATA-12 [v.2]

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Date _____,2009

Representative _____

moves to amend the bill on page 3, line 15,
by rewriting that line to read:

"General Statutes; any water or wastewater permit issued under Article 10 or Article 11 of Chapter 130A of the General Statutes; any building permit issued under Article 9 of Chapter 143";

and on page 3, line 16,
by rewriting that line to read:

"of the General Statutes; any discharge, nondischarge, or extension permit issued under";

and on page 3, line 32,
by rewriting that line to read:

"development of land or to the provision of water or wastewater services by a government entity and whether the approval under this subdivision is in";

and on page 3, line 36,
by rewriting that line to read:

"or administrative decision that allows the development or provision of services to proceed.".

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1490*

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1490-ATA-12 [v.2]

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1490*
PROPOSED COMMITTEE SUBSTITUTE H1490-PCS70408-TA-12

Short Title:	Extend Permits Regarding Land Development.	(Public)
Sponsors:		
Referred to:		

April 13, 2009

A BILL TO BE ENTITLED

AN ACT TO EXTEND CERTAIN PERMITS AND APPROVALS AFFECTING THE PHYSICAL DEVELOPMENT OF REAL PROPERTY LOCATED WITHIN THE STATE OF NORTH CAROLINA, THEREBY SUPERSEDING ALL STATUTORY AND REGULATORY REQUIREMENTS TO THE CONTRARY.

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SECTION 2. The General Assembly makes the following findings:

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(2) The real estate finance sector of the economy is in severe decline due to the creation, bundling, and widespread selling of leveraged securities, such as credit default swaps, and due to excessive defaults on sub-prime mortgages and the resultant foreclosures on a vast scale, thereby widening the mortgage finance crisis. The extreme tightening of lending standards for home buyers and other real estate borrowers has reduced access to the capital markets.

(3) As a result of the crisis in the real estate finance sector of the economy, real estate developers and redevelopers, including homebuilders, and commercial, office, and industrial developers, have experienced an industry-wide decline, including reduced demand, cancelled orders, declining sales and rentals, price reductions, increased inventory, fewer buyers who qualify to purchase homes, layoffs, and scaled back growth plans.

(4) The process of obtaining planning board and zoning board of adjustment approvals for subdivisions, site plans, and variances can be difficult, time consuming, and expensive, both for private applicants and government bodies.

(5) The process of obtaining the myriad other government approvals, such as wetlands permits, treatment works approvals, on-site wastewater disposal permits, stream encroachment permits, flood hazard area permits, highway access permits, and numerous waivers and variances, can be difficult and

expensive; further, changes in the law can render these approvals, if expired or lapsed, difficult to renew or re-obtain.

(6) County and municipal governments, including local sewer and water authorities, obtain permits and approvals from State government agencies, particularly the Department of Environment and Natural Resources, which permits and approvals may expire or lapse due to the state of the economy and the inability of both the public sector and the private sector to proceed with projects authorized by the permit or approval.

(7) County and municipal governments also obtain determinations of master plan consistency, conformance, or endorsement with State or regional plans, from State and regional government entities that may expire or lapse without implementation due to the state of the economy.

(8) The current national recession has severely weakened the building industry, and many landowners and developers are seeing their life's work destroyed by the lack of credit and dearth of buyers and tenants, due to the crisis in real estate financing and the building industry, uncertainty over the state of the economy, and increasing levels of unemployment in the construction industry.

(9) The construction industry and related trades are sustaining severe economic losses, and the lapsing of government development approvals would exacerbate, if not addressed, those losses.

(10) Financial institutions that lent money to property owners, builders, and developers are experiencing erosion of collateral and depreciation of their assets as permits and approvals expire, and the extension of these permits and approvals is necessary to maintain the value of the collateral and the solvency of financial institutions throughout the State.

(11) Due to the current inability of builders and their purchasers to obtain financing, under existing economic conditions, more and more once-approved permits are expiring or lapsing and, as these approvals lapse, lenders must reappraise and thereafter substantially lower real estate valuations established in conjunction with approved projects, thereby requiring the reclassification of numerous loans which, in turn, affects the stability of the banking system and reduces the funds available for future lending, thus creating more severe restrictions on credit and leading to a vicious cycle of default.

(12) As a result of the continued downturn of the economy, and the continued expiration of approvals that were granted by State and local governments, it is possible that thousands of government actions will be undone by the passage of time.

(13) Obtaining an extension of an approval pursuant to existing statutory or regulatory provisions can be both costly in terms of time and financial resources and insufficient to cope with the extent of the present financial conditions; moreover, the costs imposed fall on the public as well as the private sector.

(14) Obtaining extensions of approvals granted by State government is frequently impossible, always difficult, and always expensive, and no policy reason is served by the expiration of these permits, which were approved only after thorough review of the application.

(15) It is the purpose of this act to prevent the wholesale abandonment of already approved projects and activities due to the present unfavorable economic conditions, by tolling the term of these approvals for a finite period of time

as the economy improves, thereby preventing a waste of public and private resources.

SECTION 3. Definitions. – As used in this act, the following definitions apply:

(1) Approval. – Except as otherwise provided in Section 4 of this act, any detailed statement by a State agency under G.S. 113A-4; any detailed statement submitted by a special-purpose unit of government or a private developer of a major development project under G.S. 113A-8; any finding of no significant impact prepared by a State agency under Article 1 of Chapter 113A of the General Statutes; any approval of an erosion and sedimentation control plan granted by a local government or by the North Carolina Sedimentation Control Commission under Article 4 of Chapter 113A of the General Statutes; any permit for major development or minor development, as defined in G.S. 113A-118, or any other permit issued under the Coastal Area Management Act (CAMA), Part 4 of Article 7 of Chapter 113A of the General Statutes; any water or wastewater permit issued under Article 10 or Article 11 of Chapter 130A of the General Statutes; any building permit issued under Article 9 of Chapter 143 of the General Statutes; any discharge, nondischarge, or extension permit issued under Part 1 of Article 21 of Chapter 143 of the General Statutes; any stream origination certifications issued under Article 21 of Chapter 143 of the General Statutes; any water quality certification under Article 21 of Chapter 143 of the General Statutes; any air quality permit issued by the Environmental Management Commission under Article 21B of Chapter 143 of the General Statutes; any approval by a county of sketch plans, preliminary plats, plats regarding a subdivision of land, a site specific development plan or a phased development plan, a development permit, or a building permit under Article 18 of Chapter 153A of the General Statutes; any approval by a city of sketch plans, preliminary plats, or plats regarding a subdivision of land, a site specific development plan or a phased development plan, a development agreement, or a building permit under Article 19 of Chapter 160A of the General Statutes; any certificate of appropriateness issued by a preservation commission of a city under Part 3C of Article 19 of Chapter 160A of the General Statutes; when the approval under this subdivision pertains to the development of land or to the provision of water or wastewater services by a government entity and whether the approval under this subdivision is in the form of a permit, approval, license, certification, permission, determination, interpretation, exemption, variance, exception, waiver, letter of interpretation, no further action letter, agreement, or any other executive or administrative decision that allows the development or provision of services to proceed.

(2) Area of environmental concern. – An area designated under G.S. 113A-113 by the Coastal Resources Commission.

(3) Development. – The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure or facility, or of any grading, soil removal or relocation, excavation or landfill, or any use or change in the use of any building or other structure or land or extension of the use of land.

(4) Extension period. – The period beginning January 1, 2007, and continuing through December 31, 2010.

(5) Government. – Any municipal, county, regional, or State government, or any agency, department, commission, or other instrumentality thereof.

(6) Substantially altered. – Any change to the plans regarding the approval under subdivision (1) of this section that does not constitute a "permit amendment" or a "new permit," including a change in ownership or corporate structure of a permitted facility, a change to the permit that is the subject of the approval that increases by ten percent (10%) or more the population or the geographic area to be served by the development project, or a change in the category or characterization of the development project. As used in this subdivision, "permit" includes any license, certification, permission, determination, interpretation, exemption, variance, exception, waiver, letter of interpretation, no further action letter, agreement, or any other executive or administrative decision that allows a development or governmental project to proceed.

SECTION 4.(a) For any government approval in existence during the extension period, the running of the period of approval is automatically suspended for the extension period, except as otherwise provided hereunder; however, the tolling provided for herein shall not extend the government approval more than six months beyond the conclusion of the extension period. Nothing in this act shall shorten the duration that any approval would have had in the absence of this act, nor shall this act prohibit the granting of such additional extensions as are provided by law when the tolling granted by this act expires.

SECTION 4.(b) Nothing in this act shall be deemed to extend or purport to extend:

(1) Any permit or approval under Section 3 of this act when the permit or approval is for a development project that has been substantially altered since the permit or approval was granted, as determined by the government that granted the permit or approval.

(2) Any permit or approval issued by the government of the United States or any agency or instrumentality thereof, or to any permit or approval by whatever authority issued of which the duration of effect or the date or terms of its expiration are specified or determined by or pursuant to law or regulation of the federal government or any of its agencies or instrumentalities.

(3) Any permit or approval issued within an area of environmental concern.

(4) Any Department of Transportation permit other than a right-of-way permit.

SECTION 4.(c) This act shall not affect any administrative consent order issued by the Department of Environment and Natural Resources in effect or issued during the extension period.

SECTION 4.(d) Nothing in this act shall affect the ability of the Secretary of Environment and Natural Resources to revoke or modify a specific permit or approval, or extension thereof pursuant to this act, when that specific permit or approval contains language authorizing the modification or revocation of the permit or approval by the Department of Environment and Natural Resources. Nothing in this act shall affect the ability of the Environmental Management Commission to revoke or modify a specific permit or approval, or extension thereof pursuant to this act, when that specific permit or approval contains language authorizing the modification or revocation of the permit or approval by the Environmental Management Commission.

SECTION 4.(e) In the event that any approval tolled pursuant to this act is based upon the connection to a sanitary sewer system, the approval's extension shall be contingent upon the availability of sufficient capacity, on the part of the treatment facility, to accommodate the development whose approval has been extended. If sufficient capacity is not available, those permit holders whose approvals have been extended shall have priority with regard to the further allocation of gallonage over those approval holders who have not received

approval of a hookup prior to the effective date of this act. Priority regarding the distribution of further gallonage to any permit holder who has received the extension of an approval pursuant to this act shall be allocated in order of the granting of the original approval of the connection.

SECTION 4.(f) Nothing in this act shall be construed or implemented in such a way as to modify any requirement of law that is necessary to retain federal delegation to, or assumption by, the State of the authority to implement a federal law or program.

SECTION 5. Each State agency shall, within 30 days after the effective date of this act, place a notice in the North Carolina Register tolling all approvals in conformance with this act.

SECTION 6. The provisions of this act shall be liberally construed to effectuate the purposes of this act.

SECTION 7. This act is effective when it becomes law.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

HB 1490 A BILL TO BE ENTITLED AN ACT TO EXTEND CERTAIN PERMITS AND APPROVALS AFFECTING THE PHYSICAL DEVELOPMENT OF REAL PROPERTY LOCATED WITHIN THE STATE OF NORTH CAROLINA, THEREBY SUPERSEDING ALL STATUTORY AND REGULATORY REQUIREMENTS TO THE CONTRARY.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on COMMERCE, SMALL BUSINESS, AND ENTREPRENEURSHIP.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

HOUSE BILL 1196

Short Title:	State Nat. & Hist. Pres. Addns. & Del.	(Public)
Sponsors:	Representatives England; Harrison and Lucas.	
Referred to:	Environment and Natural Resources, if favorable, Finance.	

April 8, 2009

A BILL TO BE ENTITLED

AN ACT TO DEDICATE AND ACCEPT CERTAIN PROPERTIES AS PART OF THE STATE NATURE AND HISTORIC PRESERVE AND TO REMOVE CERTAIN LANDS FROM THE STATE NATURE AND HISTORIC PRESERVE.

Whereas, Section 5 of Article XIV of the North Carolina Constitution authorizes the dedication of State and local government properties as part of the State Nature and Historic Preserve upon acceptance by a law enacted by a three-fifths vote of the members of each house of the General Assembly and provides for removal of properties from the State Nature and Historic Preserve by a law enacted by a three-fifths vote of the members of each house of the General Assembly; and

Whereas, the General Assembly enacted the State Nature and Historic Preserve Dedication Act, Chapter 443 of the 1973 Session Laws, to prescribe the conditions and procedures under which properties may be specifically dedicated for the purposes set out in Section 5 of Article XIV of the North Carolina Constitution; and

Whereas, over 12,350 acres have been added to the State Parks System since the last dedication and acceptance of properties as part of the State Nature and Historic Preserve pursuant to a petition of the Council of State dated May 1, 2007; and

Whereas, in accordance with G.S. 143-260.8, it is anticipated that on May 5, 2009, the Council of State will vote to petition the General Assembly to enact a law pursuant to Section 5 of Article XIV of the North Carolina Constitution to dedicate and accept properties added to the State Parks System and designated in the petition for inclusion as parts of the State Nature and Historic Preserve; and

Whereas, it is anticipated that as a part of its petition of May 5, 2009, the Council of State will request the General Assembly to remove certain properties from the State Nature and Historic Preserve; and

Whereas, G.S. 113-44.14 provides for additions to, and deletions from, the State Parks System upon authorization by the General Assembly; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-260.10 reads as rewritten:

"**§ 143-260.10. Components of State Nature and Historic Preserve.**

The following are components of the State Nature and Historic Preserve accepted by the North Carolina General Assembly pursuant to G.S. 143-260.8:

(1) All lands and waters within the boundaries of the following units of the State Parks System as of ~~1 May 2007:~~May 5, 2009: Baldhead Island State Natural Area, Bay Tree Lake State Park, Bear Paw State Natural Area, Beech Creek Bog State Natural Area, Bullhead Mountain State Natural Area, Bushy Lake State Natural Area, Carolina Beach State Park, Carvers Creek State Park,

~~Chimney Rock State Park,~~ Cliffs of the Neuse State Park, Chowan Swamp State Natural Area, Deep River State Trail, Dismal Swamp State Park, Elk Knob State Park, Fort Fisher State Recreation Area, Fort Macon State Park, Goose Creek State Park, Gorges State Park, Haw River State Park, Hammocks Beach State Park, Jones Lake State Park, Lake Norman State Park, Lea Island State Natural Area, Lower Haw River State Natural Area, Lumber River State Park, Mayo River State Park, Medoc Mountain State Park, Merchants Millpond State Park, Mitchells Millpond State Natural Area, Mount Mitchell State Park, ~~Mountain Bog State Natural Area,~~ Occoneechee Mountain State Natural Area, Pettigrew State Park, Pilot Mountain State Park, Pineola Bog State Natural Area, Raven Rock State Park, Run Hill State Natural Area, Sandy Run Savannas State Natural Area, Singletary Lake State Park, Sugar Mountain State Natural Area, Theodore Roosevelt State Natural Area, and Weymouth Woods-Sandhills Nature Preserve.

(2) All lands and waters within the boundaries of William B. Umstead State Park as of ~~1 May 2007~~ May 5, 2009, with the exception of Tract Number 65, containing 22.93140 acres as shown on a survey prepared by John S. Lawrence (RLS) and Bennie R. Smith (RLS), entitled "Property of The State of North Carolina William B. Umstead State Park", dated January 14, 1977 and filed in the State Property Office, which was removed from the State Nature and Historic Preserve by Chapter 450, Section 1 of the 1985 Session Laws. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of William B. Umstead State Park or sell and use the proceeds for that purpose. The State of North Carolina may not otherwise sell or exchange this land.

(3) Repealed by Session Laws 1999-268, s. 2.

(4) All lands within the boundaries of Morrow Mountain State Park as of ~~1 May 2007~~ May 5, 2009, with the exception of the following tract: That certain tract or parcel of land at Morrow Mountain State Park in Stanly County, North Albemarle Township, containing 0.303 acres, more or less, as surveyed and platted by Thomas W. Harris R.L.S., on a map dated August 27, 1988, and filed in the State Property Office, reference to which is hereby made for a more complete description.

(5) Repealed by Session Laws 1999-268, s. 2.

(6) All land within the boundaries of Crowders Mountain State Park as of ~~1 May 2007~~ May 5, 2009, with the exception of the following tracts. The tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System in accordance with G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of Crowders Mountain State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

a. The portion of that certain tract or parcel of land at Crowders Mountain State Park in Gaston County, Crowders Mountain Township, described in Deed Book 1939, page 800, and containing 757.28 square feet and as shown in a survey by Tanner and McConnaughey, P.A. dated July 22, 1988 and filed in the State Property Office.

b. The portion of that certain tract or parcel of land at Crowders Mountain State Park in Gaston County, east of and including the right-of-way along and across Old Peach Orchard Road, as shown in a survey by the City of Gastonia, File No. 400-194, dated November 23, 1998, and filed in the State Property Office.

c. The portion of that certain tract or parcel of land at Crowders Mountain State Park in Cleveland County, described in Deed Book 1286, Page No. 85, located on the north side of SR 2245 (Bethlehem Road) and containing 14,964 square feet as shown on the survey entitled "Survey for Crowders Mountain State Park, Deed Book 1103-107, Township 4 Kings Mountain, Cleveland County, N.C." by David W. Dickson, P.A. dated February 28, 2008.

(7) All lands owned in fee simple by the State within the boundaries of New River State Park as of ~~1 May 2007.~~ May 5, 2009.

(8) All lands and waters within the boundaries of Stone Mountain State Park as of ~~1 May 2007~~ May 5, 2009, with the exception of the following tracts: The portion of that certain tract or parcel of land at Stone Mountain State Park in Wilkes County, Traphill Township, described as parcel 33-02 in Deed Book 633-193, and more particularly described as all of the land in this parcel lying to the west of the eastern edge of the Air Bellows Road, as shown on the National Park Service Land Status Map 33 dated March 24, 1981 and filed in the State Property Office, containing approximately 72 acres. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 113-44.14.

(9) All lands and waters located within the boundaries of the following State Historic Sites as of ~~1 May 2007:~~ May 5, 2009: Alamance Battleground, Charles B. Aycock Birthplace, Historic Bath, Bennett Place, Bentonville Battleground, Brunswick Town/Fort Anderson, C.S.S. Neuse and Governor Caswell Memorial, Charlotte Hawkins Brown Memorial, Duke Homestead, Historic Edenton, Fort Dobbs, Fort Fisher, Historic Halifax, Horne Creek Living Historical Farm, House in the Horseshoe, North Carolina Transportation Museum, James K. Polk Memorial, Reed Gold Mine, Somerset Place, Stagville, State Capitol, Town Creek Indian Mound, Tryon Palace Historic Sites & Gardens, Zebulon B. Vance Birthplace, and Thomas Wolfe Memorial.

(10),(11) Repealed by Session Laws 2001-217, s. 2, effective June 15, 2001.

(12) All lands and waters located within the boundaries of Hanging Rock State Park as of ~~1 May 2007~~ May 5, 2009, with the exception of the following tract: The portion of that tract or property at Hanging Rock State Park in Stokes County, Danbury Township, described in Deed Book 360, Page 160, for a 30-foot wide right-of-way beginning approximately 183 feet south of SR 1001 and extending in a southerly direction approximately 1,479 feet to the southwest corner of the Bobby Joe Lankford tract and more particularly shown on a survey entitled, "J. Spot Taylor Heirs Survey, Danbury Township, Stokes County, N.C.", by Grinski Surveying Company, dated June 1985, and filed in the State Property Office. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 113-44.14.

(13) All lands and waters located within the boundaries of South Mountains State Park as of ~~1 May 2007~~ May 5, 2009, with the exception of the following

tracts. The tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System in accordance with G.S. 113-44.14.

a., b. Repealed by Session Laws 2007-307, s. 1, effective July 28, 2007.

c. The portions of land at South Mountains State Park that lie south of the centerline of the CCC road as shown on the drawing entitled "Land Trade between South Mountains State Park and Adjacent Game Lands along CCC Road" prepared by the Division of Parks and Recreation, dated March 15, 1999, and filed in the State Property Office and that lie within: (i) the tract or property in Burke County, Lower Fork Township, described in Deed Book 495, Page 501; (ii) the tract or property in Burke County, Lower Fork and Upper Fork Townships, described in Deed Book 715, Page 719; or, (iii) within the tracts or property in Burke County, Upper Fork Township, described in Deed Book 860, Page 341, and Deed Book 884, Page 1640. The State of North Carolina may only exchange this land for other land for the expansion of South Mountains State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

d. Repealed by Session Laws 2007-307, s. 1, effective July 28, 2007.

(14) Repealed by Session Laws 2003-234, s. 1, effective June 19, 2003.

(15) All lands and waters within the boundaries of Jockey's Ridge State Park as of ~~1 May 2007~~ May 5, 2009, with the exception of the following tracts: The portion of those certain tracts or parcels of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 227, Page 499, and Deed Book 227, Page 501, and containing 33,901 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 13 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office; the portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 222, Page 726, and containing 42,909 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 14 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office; and the portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 224, Page 790, and Deed Book 224, Page 794, and containing 34,471 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 15 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office.

(16) All lands and waters located within the boundaries of Mount Jefferson State Natural Area as of ~~1 May 2007.~~ May 5, 2009. With respect to the communications tower site on the top of Mount Jefferson and located on that certain tract or parcel of land at Mount Jefferson State Natural Area in Ashe County, West Jefferson Township, described in Deed Book F-3, Page 94, the State may provide space at the communications tower site to State public safety and emergency management agencies for the placement of antennas, repeaters, and other communications devices for public communications purposes. Notwithstanding G.S. 146-29.2, the State may lease space at the communications tower site to local governments in Ashe County for the placement of antennas, repeaters, and other communications devices for

public communications purposes. State agencies and local governments that are authorized to place communications devices at the communications tower site pursuant to this subdivision may also locate at or near the communications tower site communications equipment that is necessary for the proper operation of the communications devices. The use of the communications tower site pursuant to this subdivision is authorized by the General Assembly as a purpose other than the public purposes specified in Article XIV, Section 5, of the North Carolina Constitution, Article 25B of Chapter 143 of the General Statutes, and Article 2C of Chapter 113 of the General Statutes.

(17) All lands and waters within the Eno River State Park as of ~~1 May 2007~~ May 5, 2009, with the exception of the following ~~tract:~~tracts:

(a) The portion of that certain tract or parcel of land at Eno River State Park in Durham County, Durham Outside Township, described in Deed Book 435, Page 673, and Plat Book 87, Page 66, containing 11,000 square feet and being the portion of Lot No. 2 shown as the existing scenic easement hereby removed on the drawing prepared by Sear-Brown entitled "Recombination Plat Eno Forest Subdivision" bearing the preparer's file name 00-208-07.dwg, and filed with State Property Office. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System pursuant to G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of Eno River State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

b. The portion of that certain tract or parcel of land at Eno River State Park in Orange County, described in Deed Book 3878, Page 461, and Plat Book 98, Page 11, containing 5,313 square feet and required for the permanent easements for bridge replacement project B-4216 on SR 1002 (St. Mary's Road), as shown in the drawing entitled "Preliminary Plans, Project Reference No. B-4216" prepared for NC Department of Transportation by Mulkey Engineers and Consultants dated March 10, 2009, and filed with the State Property Office. The tracts excluded from the State Nature and Historic Preserve under this section are deleted from the State Parks System pursuant to G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of Eno River State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

(18) All land and waters within the boundaries of Hemlock Bluffs State Natural Area as of ~~1 May 2007~~, May 5, 2009, with the exception of the following tracts: The portion of that certain tract or parcel of land at Hemlock Bluffs State Natural Area in Wake County, Swift Creek Township, described in Deed Book 2461, Page 037, containing 2,025 square feet and being the portion of this tract shown as proposed R/W on the drawing prepared by Titan Atlantic Group entitled "Right of Way Acquisition Map for Town of Cary Widening of Kildaire Farm Road (SR 1300) from Autumgate Drive to Palace Green" sheet 1 of 3 bearing the preparer's file name Town of Cary Case File No. TOC 01-37, dated 26 September 2003, and filed with the State Property Office; and the portion of those certain tracts or parcels of land at

Hemlock Bluffs State Natural Area in Wake County, Swift Creek Township, described in Deed Book 4670, Page 420, containing 24,092 square feet and being the portion of these tracts shown as proposed R/W on the drawing prepared by Titan Atlantic Group entitled "Right of Way Acquisition Map for Town of Cary Widening of Kildaire Farm Road (SR 1300) from Autumgate Drive to Palace Green" sheet 3 of 3 bearing the preparer's file name Town of Cary Case File No. TOC 01-37, dated 26 September 2003, and filed with the State Property Office. The tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System pursuant to G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of Hemlock Bluffs State Natural Area or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

(19) All lands and waters within the boundaries of Lake James State Park as of ~~1 May 2007,~~ May 5, 2009, with the exception of the following tracts:

a. The portion of that certain tract or parcel of land at Lake James State Park containing 13.85 acres, and being 100 feet to the east and 150 feet to the west of a centerline shown on a survey by Witherspoon Surveying PLLC, dated February 9, 2007, and filed in the State Property Office. The State of North Carolina may grant a temporary easement to Duke Energy Corporation across this tract to facilitate the Catawba Dam Embankment Seismic Stability Improvements Project. The grant of the easement within Lake James State Park to Duke Energy Corporation under this sub-subdivision constitutes authorization by the General Assembly that the described tract of land may be used for a purpose other than the public purposes specified in Article XIV, Section 5, of the North Carolina Constitution, Article 25B of Chapter 143 of the General Statutes, and Article 2C of Chapter 113 of the General Statutes. The State of North Carolina may use the proceeds from the easement only for the expansion or improvement of Lake James State Park or another State park. The State may not otherwise sell or exchange this land.

b. The portion of that certain tract or parcel of land at Lake James State Park in McDowell County, Nebo Township, described in Deed Book 377, Page 423, and also shown as Tract B on the plat of survey prepared by Kenneth D. Suttles, RLS, dated December 4, 1987, entitled "Lake James State Park," Sheet 1 of 2, recorded in Plat Book 4, Page 275 of the McDowell County Registry, for a 40-foot right-of-way beginning at the southwest corner of Tract B and continuing along the southern boundary S 86 38' 51" E for 400 feet to the now or former John D. Walker property. The State of North Carolina may grant an easement across this tract to extinguish prescriptive easements on Tract B to improve management of the State park property. The State may not otherwise sell or exchange this land. The easement excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System pursuant to G.S. 113-44.14.

(20) All lands and waters within the boundaries of Lake Waccamaw State Park as of ~~May 1, 2007,~~ May 5, 2009, with the exception of the following tracts: The portions of that certain tract or parcel of land at Lake Waccamaw State Park in Columbus County described in Deed Book 835, Page 590, containing

48,210 square feet and being the portion of this tract shown as new R/W and permanent utility easement on drawing prepared by State of North Carolina Department of Transportation entitled "Map of Proposed Right of Way Property of State of North Carolina (Parks and Recreation) Columbus County" for Tip B-3830 on SR 1947 (Bella Coola Road) done by John E. Kaukola, PLS No. 3999 and compiled 1-18-2008, and filed with the State Property Office. The tracts excluded from the State Nature and Historic Preserve under this section are deleted from the State Parks System pursuant to G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of Lake Waccamaw State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

(21) All lands and waters within the boundaries of Chimney Rock State Park as of May 5, 2009, with the exception of the following tract: The portion of that certain tract or parcel of land at Chimney Rock State Park in Rutherford County being a portion of Parcel 2 as described in Deed Book 933, Page 598, containing 346 square feet and being shown as proposed right-of-way for bridge replacement project B-4258 on U.S. 64 over the Broad River on drawing prepared by Kimley-Horn and Associates for the North Carolina Department of Transportation and revised October 26, 2007, and filed with the State Property Office. The tracts excluded from the State Nature and Historic Preserve under this section are deleted from the State Parks System pursuant to G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of Chimney Rock State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

(22) All State-owned land and waters within the boundaries of the Mountains-to-Sea Trail as of May 5, 2009, with the exception of the following tract: The portion of that certain tract or parcel in Johnston County described in Deed Book 3634, Page 278, containing 4.72 acres and being described as proposed easement area for Piedmont Natural Gas Company transmission line on drawing entitled "Easement Survey Prepared for Piedmont Natural Gas Company, Line 142, Easement to be Acquired from the State of North Carolina" by McKim & Creed and dated July 31, 2008, and revised March 11, 2009. The State of North Carolina may grant an easement to Piedmont Natural Gas Company across this tract to facilitate the transmission of natural gas. The grant of the easement within the Mountains-to-Sea Trail to Piedmont Natural Gas Company under this section constitutes authorization by the General Assembly that the described tract of land may be used for a purpose other than the public purposes specified in Section 5 of Article XIV of the North Carolina Constitution, Article 25B of the Chapter 143 of the General Statutes, and Article 2C of Chapter 113 of the General Statutes. The State of North Carolina may use the proceeds from the easement only for the expansion or improvement of the Mountains-to-Sea Trail or another State park. The State may not otherwise sell or exchange this land."

SECTION 2. This act becomes effective on July 1, 2009, only if the Council of State acts in the manner set out in the fourth and fifth whereas clauses that precede this act.

HOUSE BILL 1196:
State Nat. & Hist. Pres. Addns. & Del

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Finance	**Date:**	May 5, 2009
Introduced by:	Rep. England	**Prepared by:**	Jennifer McGinnis Committee Counsel
Analysis of:	PCS to First Edition H1196-CSRIx-15		

SUMMARY: ***The Proposed Committee Substitute (PCS) for House Bill 1196 would dedicate and accept certain properties as part of the State Nature and Historic Preserve, and remove certain lands from the Preserve.***

CURRENT LAW: Section 5 of Article XIV of the Constitution of North Carolina provides for addition of properties to and removal of properties from the State Nature and Historic Preserve (Preserve) by a law enacted by a three-fifths vote of the members of each house of the General Assembly. The Preserve is intended to insure that lands and waters acquired and preserved for public park, recreation, conservation, and historic preservation purposes continue to be used for these purposes. Upon inclusion in the Preserve, these lands may not be used for other purposes except as authorized by a law enacted by a vote of three-fifths of the members of each house. G.S. 113-44.14 provides conditions and procedures for additions to, and deletions from, the State Parks System that must be authorized by the General Assembly. G.S. 143-260.10 lists the current components of the Preserve.

BACKGROUND: Properties were last accepted into the Preserve in 2007. Since that time over 12,350 acres have been added to the North Carolina Park System. The Council of State met on May 5, 2009 to petition the General Assembly to accept into the Preserve various State parklands and historic sites. In its petition, the Council of State also requested that certain small parcels be deleted for various reasons in order to improve the management of units, allow for existing road relocations, or allow for utility easements.

BILL ANALYSIS: The change made by the PCS concerns modification of the bill's effective date from July 1, 2009 and contingent upon the Council of State approving a petition, to effective when the bill becomes law.

The PCS would:

- Add Bear Paw State Natural Area and Deep River State Trail to the Preserve (each is a new unit of the State Parks System authorized since the last dedication of State property in 2007).
- Change the designation of Mountain Bog State Natural Area to Pineola Bog State Natural Area and Sugar Mountain State Natural Area.
- Excepts from dedication and/or deletes from the State Parks System several parcels of land proposed for disposition. These are small parcels and their disposition is to improve the management of the units, to allow for existing road relocations, or to allow for utility easements.

  (6)(c) – Concerning Crowders Mountain State Park: Add language to the statute to except a parcel of land containing 14,964 square feet, which was found to be an encroachment on the property when the State acquired the property. The parcel would be sold to the adjacent landowner and the encroachment resolved.

(17)(b) – Concerning Eno River State Park: Add language to the statute to except a parcel of land containing 5,313 square feet, which is needed for a bridge replacement project on Saint Mary's Road over Stroud's Creek in Hillsborough (allowing permanent drainage easements for the new bridge).

(21) – Concerning Chimney Rock State Park: Add language to the statute to except a parcel of land containing 346 square feet, which is needed for a bridge replacement project on US 64 over the Broad River (allowing the Department of Transportation to replace a substandard bridge).

(22) – Concerning Mountains-to-Sea Trail: Add language to allow the State to issue an easement to Piedmont Natural Gas Company for a gas transmission line across a recently acquired parcel for the Mountains-to-Sea State Trail. The tract must be removed from the Preserve as property in the Preserve may not be used for such a purpose under Section 5 of Article XIV of the Constitution of North Carolina. The underlying fee simple property will remain in the State Parks System. Disturbance to the surface will be minimized with directional boring for the gas pipeline. This is a gas line that will serve eastern Wake County and Johnston County and will be a permanent exception.

EFFECTIVE DATE: The PCS would be effective when it becomes law.

H1196-SMRI-32(CSRIx-15) v3

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1196
PROPOSED COMMITTEE SUBSTITUTE H1196-PCS10912-RIx-15

Short Title: State Nat. & Hist. Pres. Addns. & Del. (Public)

Sponsors:

Referred to:

April 8, 2009

A BILL TO BE ENTITLED

AN ACT TO DEDICATE AND ACCEPT CERTAIN PROPERTIES AS PART OF THE STATE NATURE AND HISTORIC PRESERVE AND TO REMOVE CERTAIN LANDS FROM THE STATE NATURE AND HISTORIC PRESERVE.

Whereas, Section 5 of Article XIV of the North Carolina Constitution authorizes the dedication of State and local government properties as part of the State Nature and Historic Preserve upon acceptance by a law enacted by a three-fifths vote of the members of each house of the General Assembly and provides for removal of properties from the State Nature and Historic Preserve by a law enacted by a three-fifths vote of the members of each house of the General Assembly; and

Whereas, the General Assembly enacted the State Nature and Historic Preserve Dedication Act, Chapter 443 of the 1973 Session Laws, to prescribe the conditions and procedures under which properties may be specifically dedicated for the purposes set out in Section 5 of Article XIV of the North Carolina Constitution; and

Whereas, more than 12,350 acres have been added to the State Parks System since the last dedication and acceptance of properties as part of the State Nature and Historic Preserve pursuant to a petition of the Council of State dated May 1, 2007; and

Whereas, in accordance with G.S. 143-260.8, it is anticipated that on May 5, 2009, the Council of State will vote to petition the General Assembly to enact a law pursuant to Section 5 of Article XIV of the North Carolina Constitution to dedicate and accept properties added to the State Parks System and designated in the petition for inclusion as parts of the State Nature and Historic Preserve; and

Whereas, it is anticipated that as a part of its petition of May 5, 2009, the Council of State will request the General Assembly to remove certain properties from the State Nature and Historic Preserve; and

Whereas, G.S. 113-44.14 provides for additions to, and deletions from, the State Parks System upon authorization by the General Assembly; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-260.10 reads as rewritten:

"**§ 143-260.10. Components of State Nature and Historic Preserve.**

The following are components of the State Nature and Historic Preserve accepted by the North Carolina General Assembly pursuant to G.S. 143-260.8:

(1) All lands and waters within the boundaries of the following units of the State Parks System as of ~~1 May 2007:~~May 5, 2009: Baldhead Island State Natural

Area, Bay Tree Lake State Park, Bear Paw State Natural Area, Beech Creek Bog State Natural Area, Bullhead Mountain State Natural Area, Bushy Lake State Natural Area, Carolina Beach State Park, Carvers Creek State Park, ~~Chimney Rock State Park,~~ Cliffs of the Neuse State Park, Chowan Swamp State Natural Area, Deep River State Trail, Dismal Swamp State Park, Elk Knob State Park, Fort Fisher State Recreation Area, Fort Macon State Park, Goose Creek State Park, Gorges State Park, Haw River State Park, Hammocks Beach State Park, Jones Lake State Park, Lake Norman State Park, Lea Island State Natural Area, Lower Haw River State Natural Area, Lumber River State Park, Mayo River State Park, Medoc Mountain State Park, Merchants Millpond State Park, Mitchells Millpond State Natural Area, Mount Mitchell State Park, ~~Mountain Bog State Natural Area,~~ Occoneechee Mountain State Natural Area, Pettigrew State Park, Pilot Mountain State Park, Pineola Bog State Natural Area, Raven Rock State Park, Run Hill State Natural Area, Sandy Run Savannas State Natural Area, Singletary Lake State Park, Sugar Mountain State Natural Area, Theodore Roosevelt State Natural Area, and Weymouth Woods-Sandhills Nature Preserve.

(2) All lands and waters within the boundaries of William B. Umstead State Park as of ~~1 May 2007~~ May 5, 2009, with the exception of Tract Number 65, containing 22.93140 acres as shown on a survey prepared by John S. Lawrence (RLS) and Bennie R. Smith (RLS), entitled "Property of The State of North Carolina William B. Umstead State Park", dated January 14, 1977 and filed in the State Property Office, which was removed from the State Nature and Historic Preserve by Chapter 450, Section 1 of the 1985 Session Laws. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of William B. Umstead State Park or sell and use the proceeds for that purpose. The State of North Carolina may not otherwise sell or exchange this land.

(3) Repealed by Session Laws 1999-268, s. 2.

(4) All lands within the boundaries of Morrow Mountain State Park as of ~~1 May 2007~~ May 5, 2009, with the exception of the following tract: That certain tract or parcel of land at Morrow Mountain State Park in Stanly County, North Albemarle Township, containing 0.303 acres, more or less, as surveyed and platted by Thomas W. Harris R.L.S., on a map dated August 27, 1988, and filed in the State Property Office, reference to which is hereby made for a more complete description.

(5) Repealed by Session Laws 1999-268, s. 2.

(6) All land within the boundaries of Crowders Mountain State Park as of ~~1 May 2007~~May 5, 2009, with the exception of the following tracts. The tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System in accordance with G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of Crowders Mountain State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

a. The portion of that certain tract or parcel of land at Crowders Mountain State Park in Gaston County, Crowders Mountain Township, described in Deed Book 1939, page 800, and containing

757.28 square feet and as shown in a survey by Tanner and McConnaughey, P.A. dated July 22, 1988 and filed in the State Property Office.

b. The portion of that certain tract or parcel of land at Crowders Mountain State Park in Gaston County, east of and including the right-of-way along and across Old Peach Orchard Road, as shown in a survey by the City of Gastonia, File No. 400-194, dated November 23, 1998, and filed in the State Property Office.

c. The portion of that certain tract or parcel of land at Crowders Mountain State Park in Cleveland County, described in Deed Book 1286, Page No. 85, located on the north side of SR 2245 (Bethlehem Road) and containing 14,964 square feet as shown on the survey entitled "Survey for Crowders Mountain State Park, Deed Book 1103-107, Township 4 Kings Mountain, Cleveland County, N.C." by David W. Dickson, P.A. dated February 28, 2008.

(7) All lands owned in fee simple by the State within the boundaries of New River State Park as of ~~1 May 2007.~~ May 5, 2009.

(8) All lands and waters within the boundaries of Stone Mountain State Park as of ~~1 May 2007~~ May 5, 2009, with the exception of the following tracts: The portion of that certain tract or parcel of land at Stone Mountain State Park in Wilkes County, Traphill Township, described as parcel 33-02 in Deed Book 633-193, and more particularly described as all of the land in this parcel lying to the west of the eastern edge of the Air Bellows Road, as shown on the National Park Service Land Status Map 33 dated March 24, 1981 and filed in the State Property Office, containing approximately 72 acres. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 113-44.14.

(9) All lands and waters located within the boundaries of the following State Historic Sites as of ~~1 May 2007:~~ May 5, 2009: Alamance Battleground, Charles B. Aycock Birthplace, Historic Bath, Bennett Place, Bentonville Battleground, Brunswick Town/Fort Anderson, C.S.S. Neuse and Governor Caswell Memorial, Charlotte Hawkins Brown Memorial, Duke Homestead, Historic Edenton, Fort Dobbs, Fort Fisher, Historic Halifax, Horne Creek Living Historical Farm, House in the Horseshoe, North Carolina Transportation Museum, James K. Polk Memorial, Reed Gold Mine, Somerset Place, Stagville, State Capitol, Town Creek Indian Mound, Tryon Palace Historic Sites & Gardens, Zebulon B. Vance Birthplace, and Thomas Wolfe Memorial.

(10), (11) Repealed by Session Laws 2001-217, s. 2, effective June 15, 2001.

(12) All lands and waters located within the boundaries of Hanging Rock State Park as of ~~1 May 2007~~ May 5, 2009, with the exception of the following tract: The portion of that tract or property at Hanging Rock State Park in Stokes County, Danbury Township, described in Deed Book 360, Page 160, for a 30-foot wide right-of-way beginning approximately 183 feet south of SR 1001 and extending in a southerly direction approximately 1,479 feet to the southwest corner of the Bobby Joe Lankford tract and more particularly shown on a survey entitled, "J. Spot Taylor Heirs Survey, Danbury Township, Stokes County, N.C.", by Grinski Surveying Company, dated June 1985, and filed in the State Property Office. The tract excluded from

the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 113-44.14.

(13) All lands and waters located within the boundaries of South Mountains State Park as of ~~1 May 2007~~ May 5, 2009, with the exception of the following tracts. The tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System in accordance with G.S. 113-44.14.

a., b. Repealed by Session Laws 2007-307, s. 1, effective July 28, 2007.

c. The portions of land at South Mountains State Park that lie south of the centerline of the CCC road as shown on the drawing entitled "Land Trade between South Mountains State Park and Adjacent Game Lands along CCC Road" prepared by the Division of Parks and Recreation, dated March 15, 1999, and filed in the State Property Office and that lie within: (i) the tract or property in Burke County, Lower Fork Township, described in Deed Book 495, Page 501; (ii) the tract or property in Burke County, Lower Fork and Upper Fork Townships, described in Deed Book 715, Page 719; or, (iii) within the tracts or property in Burke County, Upper Fork Township, described in Deed Book 860, Page 341, and Deed Book 884, Page 1640. The State of North Carolina may only exchange this land for other land for the expansion of South Mountains State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

d. Repealed by Session Laws 2007-307, s. 1, effective July 28, 2007.

(14) Repealed by Session Laws 2003-234, s. 1, effective June 19, 2003.

(15) All lands and waters within the boundaries of Jockey's Ridge State Park as of ~~1 May 2007~~ May 5, 2009, with the exception of the following tracts: The portion of those certain tracts or parcels of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 227, Page 499, and Deed Book 227, Page 501, and containing 33,901 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 13 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office; the portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 222, Page 726, and containing 42,909 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 14 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office; and the portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 224, Page 790, and Deed Book 224, Page 794, and containing 34,471 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 15 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office.

(16) All lands and waters located within the boundaries of Mount Jefferson State Natural Area as of ~~1 May 2007.~~ May 5, 2009. With respect to the communications tower site on the top of Mount Jefferson and located on that certain tract or parcel of land at Mount Jefferson State Natural Area in Ashe County, West Jefferson Township, described in Deed Book F-3, Page 94, the State may provide space at the communications tower site to State public safety and emergency management agencies for the placement of antennas,

repeaters, and other communications devices for public communications purposes. Notwithstanding G.S. 146-29.2, the State may lease space at the communications tower site to local governments in Ashe County for the placement of antennas, repeaters, and other communications devices for public communications purposes. State agencies and local governments that are authorized to place communications devices at the communications tower site pursuant to this subdivision may also locate at or near the communications tower site communications equipment that is necessary for the proper operation of the communications devices. The use of the communications tower site pursuant to this subdivision is authorized by the General Assembly as a purpose other than the public purposes specified in Article XIV, Section 5, of the North Carolina Constitution, Article 25B of Chapter 143 of the General Statutes, and Article 2C of Chapter 113 of the General Statutes.

(17) All lands and waters within the Eno River State Park as of ~~1 May 2007~~ May 5, 2009, with the exception of the following ~~tract:~~tracts:

a. The portion of that certain tract or parcel of land at Eno River State Park in Durham County, Durham Outside Township, described in Deed Book 435, Page 673, and Plat Book 87, Page 66, containing 11,000 square feet and being the portion of Lot No. 2 shown as the existing scenic easement hereby removed on the drawing prepared by Sear-Brown entitled "Recombination Plat Eno Forest Subdivision" bearing the preparer's file name 00-208-07.dwg, and filed with State Property Office. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System pursuant to G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of Eno River State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

b. The portion of that certain tract or parcel of land at Eno River State Park in Orange County, described in Deed Book 3878, Page 461, and Plat Book 98, Page 11, containing 5,313 square feet and required for the permanent easements for bridge replacement project B-4216 on SR 1002 (St. Mary's Road), as shown in the drawing entitled "Preliminary Plans, Project Reference No. B-4216" prepared for North Carolina Department of Transportation by Mulkey Engineers and Consultants dated March 10, 2009, and filed with the State Property Office. The tracts excluded from the State Nature and Historic Preserve under this section are deleted from the State Parks System pursuant to G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of Eno River State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

(18) All land and waters within the boundaries of Hemlock Bluffs State Natural Area as of ~~1 May 2007,~~May 5, 2009, with the exception of the following tracts: The portion of that certain tract or parcel of land at Hemlock Bluffs State Natural Area in Wake County, Swift Creek Township, described in Deed Book 2461, Page 037, containing 2,025 square feet and being the portion of this tract shown as proposed R/W on the drawing prepared by Titan Atlantic Group entitled "Right of Way Acquisition Map for Town of

Cary Widening of Kildaire Farm Road (SR 1300) from Autumgate Drive to Palace Green" sheet 1 of 3 bearing the preparer's file name Town of Cary Case File No. TOC 01-37, dated 26 September 2003, and filed with the State Property Office; and the portion of those certain tracts or parcels of land at Hemlock Bluffs State Natural Area in Wake County, Swift Creek Township, described in Deed Book 4670, Page 420, containing 24,092 square feet and being the portion of these tracts shown as proposed R/W on the drawing prepared by Titan Atlantic Group entitled "Right of Way Acquisition Map for Town of Cary Widening of Kildaire Farm Road (SR 1300) from Autumgate Drive to Palace Green" sheet 3 of 3 bearing the preparer's file name Town of Cary Case File No. TOC 01-37, dated 26 September 2003, and filed with the State Property Office. The tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System pursuant to G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of Hemlock Bluffs State Natural Area or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

(19) All lands and waters within the boundaries of Lake James State Park as of ~~1 May 2007~~,May 5, 2009, with the exception of the following tracts:

a. The portion of that certain tract or parcel of land at Lake James State Park containing 13.85 acres, and being 100 feet to the east and 150 feet to the west of a centerline shown on a survey by Witherspoon Surveying PLLC, dated February 9, 2007, and filed in the State Property Office. The State of North Carolina may grant a temporary easement to Duke Energy Corporation across this tract to facilitate the Catawba Dam Embankment Seismic Stability Improvements Project. The grant of the easement within Lake James State Park to Duke Energy Corporation under this sub-subdivision constitutes authorization by the General Assembly that the described tract of land may be used for a purpose other than the public purposes specified in Article XIV, Section 5, of the North Carolina Constitution, Article 25B of Chapter 143 of the General Statutes, and Article 2C of Chapter 113 of the General Statutes. The State of North Carolina may use the proceeds from the easement only for the expansion or improvement of Lake James State Park or another State park. The State may not otherwise sell or exchange this land.

b. The portion of that certain tract or parcel of land at Lake James State Park in McDowell County, Nebo Township, described in Deed Book 377, Page 423, and also shown as Tract B on the plat of survey prepared by Kenneth D. Suttles, RLS, dated December 4, 1987, entitled "Lake James State Park," Sheet 1 of 2, recorded in Plat Book 4, Page 275 of the McDowell County Registry, for a 40-foot right-of-way beginning at the southwest corner of Tract B and continuing along the southern boundary S 86 38' 51" E for 400 feet to the now or former John D. Walker property. The State of North Carolina may grant an easement across this tract to extinguish prescriptive easements on Tract B to improve management of the State park property. The State may not otherwise sell or exchange this land. The easement excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System pursuant to G.S. 113-44.14.

(20) All lands and waters within the boundaries of Lake Waccamaw State Park as of ~~May 1, 2007~~,May 5, 2009, with the exception of the following tracts: The portions of that certain tract or parcel of land at Lake Waccamaw State Park in Columbus County described in Deed Book 835, Page 590, containing 48,210 square feet and being the portion of this tract shown as new R/W and permanent utility easement on drawing prepared by State of North Carolina Department of Transportation entitled "Map of Proposed Right of Way Property of State of North Carolina (Parks and Recreation) Columbus County" for Tip B-3830 on SR 1947 (Bella Coola Road) done by John E. Kaukola, PLS No. 3999 and compiled 1-18-2008, and filed with the State Property Office. The tracts excluded from the State Nature and Historic Preserve under this section are deleted from the State Parks System pursuant to G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of Lake Waccamaw State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

(21) All lands and waters within the boundaries of Chimney Rock State Park as of May 5, 2009, with the exception of the following tract: The portion of that certain tract or parcel of land at Chimney Rock State Park in Rutherford County being a portion of Parcel 2 as described in Deed Book 933, Page 598, containing 346 square feet and being shown as proposed right-of-way for bridge replacement project B-4258 on U.S. 64 over the Broad River on drawing prepared by Kimley-Horn and Associates for the North Carolina Department of Transportation and revised October 26, 2007, and filed with the State Property Office. The tracts excluded from the State Nature and Historic Preserve under this section are deleted from the State Parks System pursuant to G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of Chimney Rock State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

(22) All State-owned land and waters within the boundaries of the Mountains-to-Sea Trail as of May 5, 2009, with the exception of the following tract: The portion of that certain tract or parcel in Johnston County described in Deed Book 3634, Page 278, containing 4.72 acres and being described as proposed easement area for Piedmont Natural Gas Company transmission line on drawing entitled "Easement Survey Prepared for Piedmont Natural Gas Company, Line 142, Easement to be Acquired from the State of North Carolina" by McKim & Creed and dated July 31, 2008, and revised March 11, 2009. The State of North Carolina may grant an easement to Piedmont Natural Gas Company across this tract to facilitate the transmission of natural gas. The grant of the easement within the Mountains-to-Sea Trail to Piedmont Natural Gas Company under this section constitutes authorization by the General Assembly that the described tract of land may be used for a purpose other than the public purposes specified in Section 5 of Article XIV of the North Carolina Constitution, Article 25B of Chapter 143 of the General Statutes, and Article 2C of Chapter 113 of the General Statutes. The State of North Carolina may use the proceeds from the easement only for the expansion or improvement of the Mountains-to-Sea Trail or another State park. The State may not otherwise sell or exchange this land."

SECTION 2. This act is effective when it becomes law.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

HB 1196 A BILL TO BE ENTITLED AN ACT TO DEDICATE AND ACCEPT CERTAIN PROPERTIES AS PART OF THE STATE NATURE AND HISTORIC PRESERVE AND TO REMOVE CERTAIN LANDS FROM THE STATE NATURE AND HISTORIC PRESERVE.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on FINANCE.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — **Name of Committee**

May 5, 2009 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Andy McDaniel	NCDOT 1020 Birch Ridge Rd. Raleigh 27610
Allan Williams	Greensboro Box 3136 GSO, NC 27402
Kenney McDowell	Greensboro " "
Josh Johnson	AWCK 740 Chapel Hill Road, Burlington, NC 27216
Bob Dodson	City of Durham 101 City Hall Plaza Durham NC 27701
Betsy Bailey	Professional Engineers of NC
Robert M. Ward	City of Burlington 425 S. Lexington Ave, Burlington, NC 27215
Michael Layne	" "
Robert C Patterson	" "
Randy Billings	Piedmont Triad COG 2216 W. Meadowview Rd, Suite 201 GSO 27407
Steven Lentz	Kilpatrick Stockton

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — May 5, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Cox	City of Durham
Leonard Wallace	Mayor Town of Gibsonville
Ben Baxley	Town of Gibsonville
Lana Hygh	Town of Cary
Harold Owen	City of Burlington
David Huffman	"
Charles Wilkins	"
[illegible]	"
Mallory Hatcher	NWC
Patrice Roesler	NCACC
ED CLAYTON	SIERRA CLUB

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — **Name of Committee**

May 5, 2009 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Edgar Miller	CTNC
Amy Sines	DENR
Alan Clark	NCDENR-DWQ
Ed Harrison	Chapel Hill Town Council
Elaine Chiossa	Haw River Assembly
Tom VanNortwick	Chatham Co. Commissioner
Tom Cors	TNC
Steve Hall	DENR
Molly Diggins	Sierra Club
Elizabeth Bise	DENR
Lisa Schell	CWMTF

VISITOR REGISTRATION SHEET

Environmental - Natural resource House 5/05/09

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Kelli Kulcsar	NCLM
Jim Blackburn	Friend of Kelli's
[illegible]	GCO Partnership
Tim Marks	NB&M of Raleigh-wake County
Lisa Martin	NC Home Builders
Jessi Hayes	
Rick Zechini	NC Assn. of Realtors
Cady Thomas	
Sam Bewley	LBA
Michelle Frazier	MF+S
George Everett	Duke Energy

VISITOR REGISTRATION SHEET

Environment: House — 5/05/09

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Goodman	NC Chamber
Preston Howard	NCIC
Patrick Buffkin	NMRS
Karen Rindge	Wake Up Wake County
Marlene Sanford	TREBIC
[illegible]	Richard Ctr of Pe
Sherri McClees	McClees Consulting, Inc.
Tommy Stevens	NCPC

VISITOR REGISTRATION SHEET

Environmental House — 5/05/19

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Shaw	Wake Up Wake County
Jay Stein	NCAA
Linda Andrews	NCFB
Anne Coan	NC Farm Bureau Fed
Jim Johnson	BSA
Heather Barrett	Hunton & Williams
J. Hackney	NCPC
Kim Chisholm	NCCM
Patrick Kennedy	HBA of Wake Co.
Rick Frye	HBA of Wake Co
Suzanne Harris	HBA of Raleigh-Wake Co.

VISITOR REGISTRATION SHEET

Environment House — 5/05/09

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
JACK Cozort	Womble
[illegible]	NCInst / Duke U
Elizabeth Otts	EnvironmentNC
Paula A. Wolf	WakeUP Wake County
Tom BEAN	NCSEA, NCWF
Margaret Hartzell	Environment North Carolina
Joe McCleen	McClees Consulting LC
John Williams	Land Management Group
Daniel Bliley	Daniel J. Bliley Soil & Land Use Consult. Inc

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — **Name of Committee**

May 5, 2009 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Eric Moore	DOA/SPO
Hayley Rogers	North Carolina Rural Water Assn.
Amy Pickle	Nicholas Institute / Duke University
Dolores Chandler	Chandler Soil Corporation / Chapel Hill
Jason Hall	Central Carolina Soil Consulting / Raleigh
Rob Willcox	S&ME, Inc. / Greensboro
Carol Tingley	NC DENR / Parks
Kim Brock	NCBIA
Emily Sallenave	NCBA
Sue Burke	Town of Chapel Hill Stormwater Mgmt. Division
Laura Pisoni	NCSEA

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — **Name of Committee**

May 5, 2009 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Robin Smith	DENR
Matt Matthews	DENR/DWQ
Coreen Sullins	DENR/DWQ
Pat Harris	DENR/ DSWC
David Williams	DENR/DSWC
Grady McCallie	NC Conservation Network.
Dan Crawford	Conservation Council of NC
Drew Ball	NC Sierra Club
Harrison Gilbert	Governor's Office
Rich Gannon	NC DWQ
Johanna Reese	DOT

House Pages

ENVIRONMENT & NATURAL RESOURCES

Name of Committee: _____ Date: MAY 5, 2009

1. Name: Darby Cox
   County: Buncombe
   Sponsor: Mitch Gillespie
2. Name: Jacob Searcy
   County: Rutherford
   Sponsor: Rep. England
   Name: _____
   County: _____
   Sponsor: _____
4. Name: _____
   County: _____
   Sponsor: _____
5. Name: _____
   County: _____
   Sponsor: _____

Sgt-At-Arms

Name: FRED HINES S. HENRY WORTH
2. Name: CARLTON ADAMS
3. Name: CHARLES COKER
4. Name: FRANK PREVO

FRANK DR WO
CHARLES COKER
CARLTON ADAMS
FRED HINES

R. HENRY MORTH

MAY R. LOOP

NATURAL RESOURCES
ENVIRONMENT ?

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE

MEETING

May 7, 2009
12:00 NOON
Room 643 LOB

Representative Lucy T. Allen, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES

AGENDA ITEMS:

HB 617	Limit Outside Work for DENR/Local Staff.	Representative Allen
HB 709	Environmental Technical Corrections 2009.	Representative Allen Representative Gibson, III
HB 713	Env./Nat. Res. Reports Consolidation 2009.	Representative Allen Representative Gibson, III
HB 789	File Lis Pendens for Certain Erosion Actions.	Representative Hall Representative Luebke Representative Michaux, Jr. Representative Wilkins, Jr.
HB 924	Mecklenburg County/Reimbursement Agreements.	Representative Carney
HB 1099	Amend Environmental Laws 2009.	Representative Allen Representative Gibson, III
HB 1100	Stormwater Control BMP's for Compost/Mulch.	Representative Allen
HB 1175	Update NPDES Permitting for CAFOs.	Representative Hill
HB 1287	Recycle Products Containing Mercury.	Representative Harrison Representative Burris-Floyd
HB 1335	No Duplicative Regulation of Air Toxics.	Representative Gibson, III

ADJOURNMENT

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

May 7, 2009

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Thursday, May 7, 2009, in room 643 of the Legislative Office Building. Representative Lucy T. Allen presided. Members present were: Representatives Gillespie, Harrison, Justice, Tarleton, and Underhill, Vice-Chairs; Representatives K. Alexander, Blackwood, Floyd, Gibson, Haire, Insko, Killian, Martin, McComas, Samuelson, Stiller, Tucker, West, and Womble.

Representative Allen called the meeting to order at 12:00 noon. She began with the first item on the agenda, HB 789 – A BILL TO BE ENTITLED AN ACT TO REQUIRE THE FILING OF NOTICE OF PENDING LITIGATION FOR ACTIONS SEEKING INJUNCTIVE RELIEF REGARDING SEDIMENTATION AND EROSION CONTROL FOR ANY LAND-DISTURBING ACTIVITY THAT IS SUBJECT TO THE REQUIREMENTS OF ARTICLE 4 OF CHAPTER 113A OF THE GENERAL STATUTES. Representative Hall was recognized to present the bill. Following his remarks, the committee was invited to pose questions. Representative Hall, with the assistance of Jeff Hudson, Committee Counsel, provided satisfactory responses. Representative Floyd made a motion for a favorable report and recommendation that the bill be referred to the Committee on Judiciary I. This motion passed with one member voting in opposition, the remainder in favor.

Next on the agenda was HB 1099 – A BILL TO BE ENTITLED AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS TO: (1) REPEAL THE REQUIREMENT THAT SEASONAL STATE PARK EMPLOYEES WEAR A UNIFORM VEST; (2) REQUIRE ELECTRONIC REPORTING OF ENVIRONMENTAL LEAD TEST RESULTS AND BLOOD LEAD TEST RESULTS; (3) CLARIFY THE FEE STRUCTURE FOR FOOD AND LODGING PERMITS; (4) REVISE THE SUNSET PROVISION FOR NUTRIENT OFFSET PAYMENTS; AND (5) AMEND THE SOLID WASTE DISPOSAL TAX TO STREAMLINE THE PROCESS WHEN A LOCAL GOVERNMENT IS SERVED BY A SOLID WASTE MANAGEMENT AUTHORITY. Representative Gibson was asked to explain the bill. A proposed committee substitute was distributed and Representative Underhill made a motion that the PCS be placed before the committee. This motion was unanimously approved. Questions from committee members were addressed by Representative Gibson, Jeff Hudson, and Allan Clark with the Division of Water Quality Planning Section of the Department of Natural and Environmental Resources, who presented background information leading to the introduction of the bill. Once all concerns were addressed, Representative Tarleton made a motion for a favorable report as to the committee substitute bill, unfavorable to the original bill, and a recommendation that the PCS be referred to the Committee on Finance. This motion passed unanimously.

The next bill to come before the committee was HB 1335 – A BILL TO BE ENTITLED AN ACT TO ELIMINATE STATE REGULATION OF EMISSIONS OF AIR TOXICS WHEN THESE EMISSIONS ARE REGULATED UNDER THE FEDERAL CLEAN

AIR ACT. A proposed committee substitute was distributed. Representative Blackwood made motion to place the PCS before the committee. This motion received unanimous support. Representative Gibson was recognized to explain the PCS. Following his remarks, Representative Gibson invited Keith Overcash, Director of the North Carolina Division of Air Quality, and Preston Howard with the Manufacturing and Chemical Industry Council to assist in answering questions from committee members. Because of time restrictions, Representative Allen announced that HB 1335 would be held over until the next meeting of the committee.

With no further business to come before the committee, the meeting was adjourned at 12:30 p.m.

Respectfully submitted,

Representative Lucy T. Allen, Chair

Shara Graham, Committee Assistant

HOUSE BILL 789*

Short Title:	File Lis Pendens for Certain Erosion Actions.	(Public)
Sponsors:	Representatives Hall, Luebke, Michaux, and Wilkins (Primary Sponsors).	
Referred to:	Environment and Natural Resources, if favorable, Judiciary I.	

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE FILING OF NOTICE OF PENDING LITIGATION FOR ACTIONS SEEKING INJUNCTIVE RELIEF REGARDING SEDIMENTATION AND EROSION CONTROL FOR ANY LAND-DISTURBING ACTIVITY THAT IS SUBJECT TO THE REQUIREMENTS OF ARTICLE 4 OF CHAPTER 113A OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 1-116(a) reads as rewritten:

"(a) Any person desiring the benefit of constructive notice of pending litigation must file a separate, independent notice thereof, which notice shall be cross-indexed in accordance with G.S. 1-117, in all of the following cases:

(1) Actions affecting title to real ~~property;~~property.

(2) Actions to foreclose any mortgage or deed of trust or to enforce any lien on real ~~property; and~~property.

(3) Actions in which any order of attachment is issued and real property is attached.

(4) Actions seeking injunctive relief under G.S. 113A-64.1 or G.S. 113A-65 regarding sedimentation and erosion control for any land-disturbing activity that is subject to the requirements of Article 4 of Chapter 113A of the General Statutes."

SECTION 2. This act becomes effective October 1, 2009, and applies to actions filed on or after that date.

HOUSE BILL 789:
File Lis Pendens for Certain Erosion Actions

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Judiciary I	**Date:**	May 6, 2009
Introduced by:	Representatives Hall, Luebke, Michaux, and Wilkins	**Prepared by:**	Jeff Hudson Committee Counsel
Analysis of:	First Edition		

SUMMARY: House Bill 789 would permit the filing of a notice of pending litigation for injunctive relief regarding certain sedimentation and erosion control actions.

[As introduced, this bill was identical to S586, as introduced by Sen. McKissick, which is currently in Senate Judiciary I.]

CURRENT LAW:

A notice of lis pendens is a notice filed for the purpose of warning all persons that the title to certain property is in litigation, and serves as notice that a purchaser is in danger of being bound by an adverse judgment.

Currently, under North Carolina law, a notice of lis pendens may be filed in the following actions:

- Actions affecting title to real property.
- Actions to foreclose any mortgage or deed of trust or to enforce any lien on real property.
- Actions in which any order of attachment is issued and real property is attached.

The notice of lis pendens is to contain the name of the court in which the action has been commenced or is pending; the names of the parties to the action; the nature and purpose of the action; and a description of the property to be affected thereby. The notice may be filed at or any time after the commencement of an action; at or any time after real property has been attached; or at or any time after the filing of an answer or other pleading in which the pleading party states an affirmative claim for relief falling within the actions in which a notice of lis pendens may be filed.

The notice of lis pendens is to be filed with the clerk of superior court of each county in which any part of the real property is located in order to be effective against bona fide purchasers or lien creditors with respect to that real property. Every notice filed is to be cross-indexed in a record called the "Record of Lis Pendens." The notice of lis pendens is constructive notice to a purchaser or incumbrancer of the affected property and each are bound by the proceedings taken after the cross-indexing to the same extent as if the purchaser or incumbrancer were a party to the proceedings.

The notice of lis pendens is effective only if the notice of summons is served, and may be cancelled by the court in which the action was filed.

BILL ANALYSIS:

House Bill 789 would also permit the filing of a notice of lis pendens for an action seeking injunctive relief under G.S. 113A-64.1(Restoration of areas affected by failure to comply) or G.S. 113A-65 (Injunctive relief) regarding sedimentation and erosion control for any land disturbing activity subject to Article 4 of Chapter 113A. 'Land disturbing activity' is defined as "any use of the land by any person in

residential, industrial, educational, institutional or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation" for purposes of Article 4 of Chapter 113A.

EFFECTIVE DATE: This act is effective October 1, 2009, and applies to actions filed on or after that date.

Erica Churchill, counsel to House Agriculture, substantially contributed to this summary.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

HB 789 A BILL TO BE ENTITLED AN ACT TO REQUIRE THE FILING OF NOTICE OF PENDING LITIGATION FOR ACTIONS SEEKING INJUNCTIVE RELIEF REGARDING SEDIMENTATION AND EROSION CONTROL FOR ANY LAND-DISTURBING ACTIVITY THAT IS SUBJECT TO THE REQUIREMENTS OF ARTICLE 4 OF CHAPTER 113A OF THE GENERAL STATUTES.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on JUDICIARY I.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ The bill/resolution is re-referred to the Committee on _____.

HOUSE BILL 1099

Short Title:	Amend Environmental Laws 2009.	(Public)
Sponsors:	Representatives Allen, Gibson (Primary Sponsors); and Lucas.	
Referred to:	Environment and Natural Resources, if favorable, Finance.	

April 7, 2009

A BILL TO BE ENTITLED

AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS TO: (1) REPEAL THE REQUIREMENT THAT SEASONAL STATE PARK EMPLOYEES WEAR A UNIFORM VEST; (2) REQUIRE ELECTRONIC REPORTING OF ENVIRONMENTAL LEAD TEST RESULTS AND BLOOD LEAD TEST RESULTS; (3) CLARIFY THE FEE STRUCTURE FOR FOOD AND LODGING PERMITS; (4) REVISE THE SUNSET PROVISION FOR NUTRIENT OFFSET PAYMENTS; AND (5) AMEND THE SOLID WASTE DISPOSAL TAX TO STREAMLINE THE PROCESS WHEN A LOCAL GOVERNMENT IS SERVED BY A SOLID WASTE MANAGEMENT AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-35.1 is repealed.

SECTION 2. G.S. 130A-131.8 reads as rewritten:

"**§ 130A-131.8. Laboratory ~~Reports~~ reports.~~of blood levels in children.~~**

(a) All laboratories doing business in this State shall report to the Department all environmental lead test results and blood lead test results for children less than six years of age and for individuals whose ages are unknown at the time of testing. Reports shall be made by electronic submission within five working days after test ~~completion on forms provided by the Department or on self-generated forms containing:~~ completion.

(b) Reports of blood lead test results shall contain:

(1) ~~the~~ The child's full name, date of birth, sex, race, ethnicity, address, and Medicaid number, if ~~any;~~ any.

(2) ~~the~~ The name, address, and telephone number of the requesting health care ~~provider;~~ provider.

(3) ~~the~~ The name, address, and telephone number of the testing ~~laboratory;~~ laboratory.

(4) ~~the~~ The laboratory results, whether the specimen ~~type~~ type is venous or capillary; the laboratory sample number, and the dates the sample was collected and analyzed. ~~The reports may be made by electronic submissions.~~

(c) Reports of environmental lead test results shall contain:

(1) The address where the samples were collected.

(2) Sample type, such as dust, paint, soil, or water.

(3) Surface type, such as floor, window sill, or window trough.

(4) Collection location.

(5) The name, address, and telephone number of the testing laboratory.

(6) The laboratory results, unit of measurement, the laboratory sample number, and the dates the sample was collected and analyzed."

SECTION 3. G.S. 130A-248(d) reads as rewritten:

"(d) The Department shall charge each establishment subject to this section, except nutrition programs for the elderly administered by the Division of Aging of the Department of Health and Human Services, establishments that prepare and sell meat food products or poultry products, and public school ~~cafeterias, an annual fee of fifty dollars ($50.00).~~ cafeterias, a fee of fifty dollars ($50.00) for each permit issued. This fee shall be reassessed annually for permits that do not expire. The Commission shall adopt rules to implement this subsection. Fees collected under this subsection shall be used for State and local food, lodging, and institution sanitation programs and activities. No more than thirty-three and one-third percent (33 1/3%) of the fees collected under this subsection may be used to support State health programs and activities."

SECTION 4. Section 5 of S.L. 2007-438 reads as rewritten:

"**SECTION 5.** This act becomes effective 1 September 2007 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. The fee schedule set out in Section 1 of this act expires ~~1 September 2009.~~on the effective date of the rules adopted by the Environmental Management Commission pursuant to Section 2 of this act."

SECTION 5. G.S. 105-187.63 reads as rewritten:

"**§ 105-187.63. Use of tax proceeds.**

From the taxes received pursuant to this Article, the Secretary may retain the costs of collection, not to exceed two hundred twenty-five thousand dollars ($225,000) a year, as reimbursement to the Department. The Secretary must credit or distribute taxes received pursuant to this Article, less the cost of collection, on a quarterly basis as follows:

(1) Fifty percent (50%) to the Inactive Hazardous Sites Cleanup Fund established by G.S. 130A-310.11.

(2) Thirty-seven and one-half percent (37.5%) to cities and counties in the State on a per capita basis, using the most recent annual estimate of population certified by the State Budget Officer. One-half of this amount must be distributed to cities, and one-half of this amount must be distributed to counties. For purposes of this distribution, the population of a county does not include the population of a city located in the county.

A city or county is excluded from the distribution under this subdivision if it does not provide solid waste management programs and services and is not responsible by contract for payment for these programs and services. ~~services, unless it is served by a regional solid waste management authority established under Article 22 of Chapter 153A of the General Statutes.~~ The Department of Environment and Natural Resources must provide the Secretary with a list of the cities and counties that are excluded under this subdivision. The list must be provided by May 15 of each year and applies to distributions made in the fiscal year that begins on July 1 of that year.

Funds distributed under this subdivision must be used by a city or county solely for solid waste management programs and services. ~~A city or county that receives funds under this subdivision and is served by a regional solid waste management authority must forward the amount it receives to that authority.~~

(3) Twelve and one-half percent (12.5%) to the Solid Waste Management Trust Fund established by G.S. 130A-309.12."

SECTION 6. Sections 3 and 5 of this act become effective July 1, 2009. Sections 1, 2, 4, and 6 of this act are effective when this act becomes law.

HOUSE BILL 1099:
Amend Environmental Laws 2009

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Finance	**Date:**	May 7, 2009
Introduced by:	Repsresentatives Allen and Gibson	**Prepared by:**	Jennifer Mundt Legislative Analyst
Analysis of:	PCS to First Edition H1099-CSTA-14 [v.2]		

SUMMARY: The Proposed Committee Substitute (PCS) for House Bill 1099 would make several changes to environmental and natural resources laws.

BILL ANALYSIS: The PCS for House Bill 1099 would make the following changes to environmental and natural resource laws:

Section 1: would repeal the requirement that seasonal State Park employees wear a uniform vest during working hours.

Section 2: would require all laboratories doing business in the State to report by electronic submission blood lead test results and environmental lead test results for children less than six years of age and for individuals whose ages are unknown at the time of testing pursuant to Part 4 of Article 5 of Chapter 130A of the General Statutes (Lead Poisoning in Children). Section 2 of the bill also makes clarifying amendments.

Section 3: would clarify the permit fee structure for temporary food establishments, pushcarts, and mobile food units to provide that a fee of $50.00 is required for each permit issued. Permits authorize these temporary establishments to operate for up to 15 days. Permits for other non-temporary establishments authorize operations for one year and the fees for non-temporary establishments are assessed annually. This Section becomes effective July 1, 2009.

Section 4: would extend the term of the fee structure for nutrient offset payments established pursuant to S.L. 2007-438 (Nutrient Offset Program Transition) from September 1, 2009 to September 1, 2010 to provide DENR additional time to transition the nutrient offset program from a fee-based to an actual cost structure.

Section 5: would amend the solid waste disposal tax statutes to streamline the distribution of proceeds to local governments that are served by a regional solid waste management authority. This Section becomes effective July 1, 2009.

Section 6: would extend the deadline for the development and implementation of a nutrient management strategy for certain drinking water supply reservoirs from July 1, 2009 to November 30, 2011. This Section becomes effective July 1, 2009.

EFFECTIVE DATE: Except as noted above, this act is effective when it becomes law.

H1099-SMTA-35(CSTA-14) v2

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1099
PROPOSED COMMITTEE SUBSTITUTE H1099-CSTA-14 [v.2]

5/6/2009 12:33:27 PM

Short Title: Amend Environmental Laws 2009. (Public)

Sponsors:

Referred to:

April 7, 2009

A BILL TO BE ENTITLED

AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS TO: (1) REPEAL THE REQUIREMENT THAT SEASONAL STATE PARK EMPLOYEES WEAR A UNIFORM VEST; (2) REQUIRE ELECTRONIC REPORTING OF ENVIRONMENTAL LEAD TEST RESULTS AND BLOOD LEAD TEST RESULTS; (3) CLARIFY THE FEE STRUCTURE FOR FOOD AND LODGING PERMITS; (4) REVISE THE SUNSET PROVISION FOR NUTRIENT OFFSET PAYMENTS; (5) AMEND THE SOLID WASTE DISPOSAL TAX TO STREAMLINE THE PROCESS WHEN A LOCAL GOVERNMENT IS SERVED BY A SOLID WASTE MANAGEMENT AUTHORITY; AND (6) EXTEND BY TWO YEARS THE DEADLINE FOR THE DEVELOPMENT AND IMPLEMENTATION OF A NUTRIENT MANAGEMENT STRATEGY FOR CERTAIN DRINKING WATER SUPPLY RESERVOIRS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-35.1 is repealed.

SECTION 2. G.S. 130A-131.8 reads as rewritten:

"**§ 130A-131.8. Laboratory ~~Reports~~ reports.~~of blood levels in children.~~**

(a) All laboratories doing business in this State shall report to the Department all environmental lead test results and blood lead test results for children less than six years of age and for individuals whose ages are unknown at the time of testing. Reports shall be made by electronic submission within five working days after test ~~completion on forms provided by the Department or on self-generated forms containing:~~ completion.

(b) Reports of blood lead test results shall contain all of the following:

(1) ~~the~~ The child's full name, date of birth, sex, race, ethnicity, address, and Medicaid number, if ~~any;~~ any.

(2) ~~the~~ The name, address, and telephone number of the requesting health care ~~provider;~~ provider.

(3) ~~the~~ The name, address, and telephone number of the testing ~~laboratory;~~ laboratory.

(4) ~~the~~ The laboratory results, whether the specimen ~~type—~~type is venous or capillary; the laboratory sample number, and the dates the sample was collected and analyzed. ~~The reports may be made by electronic submissions.~~

(c) Reports of environmental lead test results shall contain all of the following:

(1) The address where the samples were collected.

(2) Sample type, such as dust, paint, soil, or water.
(3) Surface type, such as floor, window sill, or window trough.
(4) Collection location.
(5) The name, address, and telephone number of the testing laboratory.
(6) The laboratory results, unit of measurement, the laboratory sample number, and the dates the sample was collected and analyzed."

SECTION 3. G.S. 130A-248(d) reads as rewritten:

"(d) The Department shall charge each establishment subject to this section, except nutrition programs for the elderly administered by the Division of Aging of the Department of Health and Human Services, establishments that prepare and sell meat food products or poultry products, and public school ~~cafeterias, an annual fee of fifty dollars ($50.00).~~ cafeterias, a fee of fifty dollars ($50.00) for each permit issued. This fee shall be reassessed annually for permits that do not expire. The Commission shall adopt rules to implement this subsection. Fees collected under this subsection shall be used for State and local food, lodging, and institution sanitation programs and activities. No more than thirty-three and one-third percent (33 1/3%) of the fees collected under this subsection may be used to support State health programs and activities."

SECTION 4. Section 5 of S.L. 2007-438 reads as rewritten:

"**SECTION 5.** This act becomes effective 1 September 2007 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. The fee schedule set out in Section 1 of this act expires ~~1 September 2009.~~ September 1, 2010. "

SECTION 5. G.S. 105-187.63 reads as rewritten:

"**§ 105-187.63. Use of tax proceeds.**

From the taxes received pursuant to this Article, the Secretary may retain the costs of collection, not to exceed two hundred twenty-five thousand dollars ($225,000) a year, as reimbursement to the Department. The Secretary must credit or distribute taxes received pursuant to this Article, less the cost of collection, on a quarterly basis as follows:

(1) Fifty percent (50%) to the Inactive Hazardous Sites Cleanup Fund established by G.S. 130A-310.11.
(2) Thirty-seven and one-half percent (37.5%) to cities and counties in the State on a per capita basis, using the most recent annual estimate of population certified by the State Budget Officer. One-half of this amount must be distributed to cities, and one-half of this amount must be distributed to counties. For purposes of this distribution, the population of a county does not include the population of a city located in the county.

A city or county is excluded from the distribution under this subdivision if it does not provide solid waste management programs and services and is not responsible by contract for payment for these programs and services. ~~services, unless it is served by a regional solid waste management authority established under Article 22 of Chapter 153A of the General Statutes.~~ The Department of Environment and Natural Resources must provide the Secretary with a list of the cities and counties that are excluded under this subdivision. The list must be provided by May 15 of each year and applies to distributions made in the fiscal year that begins on July 1 of that year.

Funds distributed under this subdivision must be used by a city or county solely for solid waste management programs and services. ~~A city or county that receives funds under this subdivision and is served by a regional solid waste management authority must forward the amount it receives to that authority.~~

(3) Twelve and one-half percent (12.5%) to the Solid Waste Management Trust Fund established by G.S. 130A-309.12."

SECTION 6.(a) Section 3.(c) of S.L. 2005-190, as amended by Section 31.(a) of S.L. 2006-259, reads as rewritten:

"**SECTION 3.(c) Nutrient management strategy.** – The Environmental Management Commission shall develop a nutrient management strategy for drinking water supply reservoirs to which this section applies by ~~1 July 2009.~~November 30, 2011. The nutrient management strategy shall be based on a calibrated nutrient response model that meets the requirement of G.S. 143-215.1(c5). The nutrient management strategy shall include specific mandatory measures to achieve the reduction goals. The Commission shall consider the cost of the proposed measures in relation to the effectiveness of the measures. These measures could include, but are not limited to, buffers, erosion and sedimentation control requirements, post-construction stormwater management, agricultural nutrient reduction measures, the addition of nutrient removal treatment processes to point source permitted wastewater treatment plants, the removal of point source discharging wastewater treatments through regionalization and conversion to non-discharge treatment technologies, and any other measures that the Commission determines to be necessary to meet the nutrient reduction goals. To the extent that one or more other State programs already mandate any of these measures, the nutrient management strategy shall incorporate the mandated measures and any extension of those measures and any additional measures that may be necessary to achieve the nutrient reduction goals. In making a nutrient loading allocation to a permit holder, the Commission shall, to the extent allowed by federal and State law, give consideration to all voluntary efforts taken by the permit holder to protect water quality prior to the development of the nutrient management strategy."

SECTION 6.(b) Section 3.(e) of S.L. 2005-190, as amended by Section 31.(b) of S.L. 2006-259, reads as rewritten:

"**SECTION 3.(e) Implementation; rulemaking.** – The Environmental Management Commission shall adopt permanent rules to implement the nutrient management strategies required by this section by ~~1 July 2009.~~November 30, 2011. The rules shall require that reductions in nutrient loading from all sources begin no later than five years after the rules become effective."

SECTION 7. Sections 3, 5, and 6 of this act become effective July 1, 2009. Sections 1, 2, 4, and 7 of this act are effective when this act becomes law.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

HB 1099 A BILL TO BE ENTITLED AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS TO: (1) REPEAL THE REQUIREMENT THAT SEASONAL STATE PARK EMPLOYEES WEAR A UNIFORM VEST; (2) REQUIRE ELECTRONIC REPORTING OF ENVIRONMENTAL LEAD TEST RESULTS AND BLOOD LEAD TEST RESULTS; (3) CLARIFY THE FEE STRUCTURE FOR FOOD AND LODGING PERMITS; (4) REVISE THE SUNSET PROVISION FOR NUTRIENT OFFSET PAYMENTS; AND (5) AMEND THE SOLID WASTE DISPOSAL TAX TO STREAMLINE THE PROCESS WHEN A LOCAL GOVERNMENT IS SERVED BY A SOLID WASTE MANAGEMENT AUTHORITY.

☒ With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on FINANCE.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

HOUSE BILL 1335

Short Title:	No Duplicative Regulation of Air Toxics.	(Public)
Sponsors:	Representatives Gibson; Lucas and Parmon.	
Referred to:	Environment and Natural Resources, if favorable, Commerce, Small Business, and Entrepreneurship.	

April 9, 2009

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE STATE REGULATION OF EMISSIONS OF AIR TOXICS WHEN THESE EMISSIONS ARE REGULATED UNDER THE FEDERAL CLEAN AIR ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.107(a) reads as rewritten:

"(a) Duty to Adopt Plans, Standards, etc. – The Commission is hereby directed and empowered, as rapidly as possible within the limits of funds and facilities available to it, and subject to the procedural requirements of this Article and Article 21:

...

(5) To develop and adopt emission control standards as in the judgment of the Commission may be necessary to prohibit, abate, or control air pollution commensurate with established air quality standards. This subdivision does not apply to ~~that portion of the National Emission Standards for Hazardous Air Pollutants for asbestos that governs demolition and renovation as set out in 40 C.F.R. § 61.141, 61.145, 61.150, and 61.154 (1 July 1993 edition).~~any air emission source subject to hazardous air pollutant emission standards under 40 C.F.R. Pts. 61 and 63.

...."

SECTION 2. This act becomes effective July 1, 2009.

HOUSE BILL 1335:
No Duplicative Regulation of Air Toxics

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Commerce, Small Business, and Entrepreneurship	**Date:**	May 7, 2009
Introduced by:	Representative Gibson	**Prepared by:**	Jeff Hudson Committee Counsel
Analysis of:	PCS to First Edition H1335-CSSB-29 [v.1]		

SUMMARY: ***The Proposed Committee Substitute for House Bill 1335 would exempt a facility that emits air pollution from Air Toxics Program emission limits if the facility is subject to certain federal emission control laws.***

CURRENT LAW AND BACKGROUND:

The North Carolina Air Toxics Program (Air Toxics Program) is administered by the Division of Air Quality in the Department of Environment and Natural Resources (DENR). It is a risk-based regulatory program designed to protect the public health by limiting emissions of toxic air pollutants from man-made sources. Some of the program's activities include:

- Assessing emissions through monitoring.

  Inspections and investigations.
- Performing risk assessments and program planning activities to focus efforts toward the reduction of exposures and emissions.
- Developing and implementing control strategies for toxic or hazardous air pollutants.
- Education and outreach activities.
- Emergency air monitoring to rapidly bring air toxics expertise to communities during potentially toxic events.

Under the Air Toxics Program, concentrations for airborne chemicals were established above which the chemical may be considered to have an adverse effect on human health. The chemicals became known as toxic air pollutants and the concentrations became known as acceptable ambient levels. North Carolina has developed acceptable ambient levels for 97 toxic air pollutants. For some airborne chemicals, the acceptable ambient levels established under the Air Toxics Program are more stringent than federal air quality emission limits.

(Information excerpted from the website of the Division of Air Quality in DENR at: http://daq.state.nc.us/toxics/)

BILL ANALYSIS:

The Proposed Committee Substitute for House Bill 1335 (PCS) would exempt a facility that emits air pollution from Air Toxics Program emission limits if the facility is subject to certain federal emission control laws.

EFFECTIVE DATE: This act becomes effective July 1, 2009.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1335
PROPOSED COMMITTEE SUBSTITUTE H1335-CSSB-29 [v.1]

5/6/2009 3:53:37 PM

Short Title: No Duplicative Regulation of Air Toxics. (Public)

Sponsors:

Referred to:

April 9, 2009

A BILL TO BE ENTITLED

AN ACT TO REDUCE STATE REGULATION OF EMISSIONS OF AIR TOXICS WHEN THESE EMISSIONS ARE REGULATED UNDER THE FEDERAL CLEAN AIR ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.107(a) reads as rewritten:

"(a) Duty to Adopt Plans, Standards, etc. – The Commission is hereby directed and empowered, as rapidly as possible within the limits of funds and facilities available to it, and subject to the procedural requirements of this Article and Article 21:

...

(5) To develop and adopt emission control standards as in the judgment of the Commission may be necessary to prohibit, abate, or control air pollution commensurate with established air quality standards. This subdivision does not apply to ~~that portion of the National Emission Standards for Hazardous Air Pollutants for asbestos that governs demolition and renovation as set out in 40 C.F.R. § 61.141, 61.145, 61.150, and 61.154 (1 July 1993 edition).~~an air emission source that is subject to hazardous air pollutant emission standards under 40 C.F.R. Pts. 61 and 63 (July 1, 2008 editions) and that is a Title V source subject to 40 C.F.R. §70.3(a)(1) (July 1, 2008 edition). Notwithstanding the provisions of this section, the Commission may impose additional requirements as may be necessary to abate a condition that endangers public health or welfare consistent with the policies set out in G.S. 143-211(c).

...."

SECTION 2. This act becomes effective July 1, 2009.

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

May 7 , 2009

SPEAKERS: PLEASE SIGN IN BELOW

Name & Title	Representing (Agency/Company)	Bill #	Support/ Oppose
KRISTEN CORACINI ENERGY POLICY ANALYST	ENVIRONMENTAL DEFENSE FUND	1335	OPPOSE
Molly Diggins State Director	Sierra Club	1335	oppose
Karl Overcash	NC DAQ		

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — May 7, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Kathryn Sawyer Westcott	AZEC/NC
Doug Lassiter	NCSTA
[illegible]	School of Law
[illegible]	Blythe Group NC
Lee Daniel	NC DENR Div Air Quality
Lori Cherry	NC DIV AIR QUALITY - DENR
Patricia Roesler	NCACC
Doug Howey	NCPCM
Anne Coan	NC Farm Bureau Fed
Andrew Cash	NLCV/Sec.
Ross Hyman	NCIC

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — May 7, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Nancy Thompson	Weyerhaeuser
[illegible]	MEIC
Bob Ford	NCPF
[illegible]	NCFA
Tracy Kimbrell	Parker Poe
Amy McConkey	SA
Henry [illegible]	Attorney Riley
[illegible]	NCPC
George Everett	Duke Energy
Kathy Hawkins	Progress Energy
Scott Gardner	Duke Energy

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — May 7, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Goodman	NC Chamber
Linda Andrews	NCFB
Kathryn Jolly	Rowan County Gov jollykp@co.rowan.nc
Allen Hardison	CRSWMA
Zach Pleasant	CAA
Lisa Martin	NCHBA
Elizabeth Biser	DENR
Stan Wall	DENR
Scott Mouw	DENR
David McGowan	NC Realtors
Daniel Auburn	Electri Cities

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — May 7, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Keith Larick	DENR- DWQ
Rob Willcox	S:ME / Greensboro
Mike Kelly	DENR- DEH
Amy Simes	DENR
Grady McCallie	NC Conservation Network.
John Huisman	NCDENR-DWQ
Richard Rogers	CWMTF
Robin Smith	DENR
Margaret Hartzell	Environment North Carolina
Molly Diggins	Sierra Club
Kris Coracini	EDF

VISITOR REGISTRATION SHEET

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Drew Ball	Sierra Club
Dan Crawford	CCNR
Paul Meyer	NCLM
Eddie Caldwell	NC Sheriffs' Assn.
Tom Bean	NC EDF, NCWF
Elizabeth Oates	Environment North Carolina
Betsy Bailey	PENC
Alan Clark	NC DWQ (DENR)
Richard Thompson	Dominion

House Pages

Name of Committee: Environment & Nat. Resources Date: 5/1/09

1. Name: _____

County: _____

Sponsor: _____

2. Name: _____

County: _____

Sponsor: _____

Name: _____

County: _____

Sponsor: _____

4. Name: _____

County: _____

Sponsor: _____

5. Name: _____

County: _____

Sponsor: _____

Sgt-At-Arms

Name: Frank Prevo

2. Name: Charles Williams

3. Name: Fred Hinis

4. Name: Martha Gadison

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

May 11, 2009

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Monday, May 11, 2009, in room 643 of the Legislative Office Building. Representative Lucy T. Allen presided. Members present were: Representatives Gillespie, Harrison, Tarleton, and Underhill, Vice-Chairs; Representatives K. Alexander, Blackwood, Floyd, Gibson, Haire, Insko, Killian, Luebke, Martin, McComas, Samuelson, Tucker, and West.

Representative Allen called the meeting to order at 12:00 noon. She began by introducing the Sergeant-at-arms staff: Reggie Sills, David Shearon, Young Bae, and Kenneth Burroughs.

She then announced that the first bill for consideration would be HB 782 – A BILL TO BE ENTITLED AN ACT TO (1) REQUIRE LOCAL GOVERNMENTS TO ADOPT ORDINANCES TO REGULATE SITE PLANNING, DESIGN, AND CONSTRUCTION OF ARTIFICIAL SLOPES IN MOUNTAINOUS AREAS TO PROMOTE SAFE AND STABLE SLOPES FOR DEVELOPMENT, TO REDUCE THE LIKELIHOOD OF SLOPE FAILURES ON DEVELOPED OR DISTURBED LAND, AND TO PROTECT HUMAN SAFETY AND PROPERTY; (2) DIRECT THE SEDIMENTATION CONTROL COMMISSION TO ASSIST LOCAL GOVERNMENTS IN DEVELOPMENT AND IMPLEMENTATION OF SAFE SLOPE CONSTRUCTION PROGRAMS AND TO DEVELOP A MODEL ORDINANCE; AND (3) PROVIDE FOR DISCLOSURE OF INFORMATION TO PURCHASERS OF PROPERTIES LOCATED IN CERTAIN AREAS DESIGNATED ON STABILITY INDEX MAPS PREPARED BY THE NORTH CAROLINA GEOLOGICAL SURVEY. A proposed committee substitute was distributed. Representative Blackwood made a motion to place the PCS before the committee. This motion passed without objection. Representative Rapp was recognized to explain the bill. Following his remarks, Representative Allen called for questions from the committee. Concerns and questions were addressed by Representative Rapp. Representative Gillespie was recognized to present an amendment (copy attached), which he said had the approval of the bill's sponsors. Jeff Hudson, Committee Counsel, was recognized to read and explain the amendment as copies were distributed to committee members. Representative Rapp agreed that bill sponsors approved of the amendment. Representative Gillespie made a motion to adopt the amendment; this motion passed unanimously. Representative Haire made a motion for a favorable report as to the committee substitute bill with the amendment incorporated into the PCS, unfavorable to the original bill, and recommendation that the PCS be referred to the Committee on Rules, Calendar, and Operations of the House. The majority of the members voted in favor of the motion.

The next bill for consideration was HB 617 – A BILL TO BE ENTITLED AN ACT TO PREVENT POTENTIAL CONFLICTS OF INTEREST BY PERSONS EMPLOYED BY THE STATE OR ACTING AS AGENTS OF THE STATE WITHIN LOCAL HEALTH DEPARTMENTS. Since Representative Allen, as primary sponsor, was to present the bill, she asked Representative Gillespie to act as chair at that time. As Representative Gillespie made his way to the podium, a proposed committee substitute was distributed to the committee. Representative Tarleton moved that the PCS be placed before the committee for consideration. Representative Allen, with the assistance of Jennifer McGinnis, Committee Counsel, provided an

explanation of the bill. John Williams, General Manager of the Land Management Group, an environmental consulting group in Wilmington, North Carolina spoke in support of the PCS for HB 617. At this point, Representative Gibson sent forth an amendment which was read and explained by Jennifer McGinnis as copies were distributed to the committee members. Once questions from members were addressed, Representative Gibson made a motion that the amendment be adopted. This motion passed without objection. Additional questions and comments from committee members were welcomed at this time. These were satisfactorily addressed by Representative Allen with the assistance of John Williams, Joe McClees of McClees Consulting, Doug Lassiter with the North Carolina Septic Tank Association, and Jim Beeson with the Licensing Board of the Soil and Environmental Consultants. Representative Haire made a motion that the amendment be incorporated in a new proposed committee substitute and that that PCS receive a favorable report from the committee, unfavorable to the original bill, with a recommendation that the PCS be referred to the Committee on State Government/State Personnel. This motion received a favorable vote from the committee members.

Representative Allen resumed her duties as Chair. Next on the agenda was HB 1335 – A BILL TO BE ENTITLED AN ACT TO ELIMINATE STATE REGULATION OF EMISSIONS OF AIR TOXICS WHEN THESE EMISSIONS ARE REGULATED UNDER THE FEDERAL CLEAN AIR ACT. Representative Allen reminded committee members that the proposed committee substitute for HB 1335 was tabled at the last meeting and indicated that the committee would continue to consider it at this time. Representative Gibson was recognized for remarks about the PCS. In addition, he distributed two pieces of material for the committee's consideration (copies attached). Representative Luebke asked for someone from the Department of Environment and Natural Resources to comment on the need for this legislation. Robin Smith, Assistant Secretary of DENR, was recognized to respond that the Department did not support this bill as written, but indicated that they would be willing to work with the bill's sponsors to come up with a compromise. Concern about duplication of state and federal programs was addressed by Representative Gibson and Robin Smith. Representative Harrison spoke in opposition to the legislation and asked that two speakers be allowed to be heard. Marion Deerhake, Member of the North Carolina Environmental Management Commission and Chair of the Air Quality Committee, spoke of the differences in the federal program and the state's air toxics program. She then explained to the committee why those she represents oppose the bill. Michael Regan, Southeast Climate and Air Policy Director of the Environmental Defense Fund, was recognized to speak on the bill. He categorized HB 1335 as a "bad bill" and asked the committee to vote in opposition. Next to speak was Preston Howard, President of the Manufacturers and Chemical Industry Council of North Carolina. He talked about reasons to support the bill and asked the committee to pass it along. Representative Blackwood made a motion for a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the PCS be referred to the Committee on Commerce, Small Business, and Entrepreneurship. At Representative Gillespie's request, a show of hands was called for. The motion passed by a vote of 12 in favor, 7 opposed.

Next on the agenda was Committee Substitute for HB 1287 - A BILL TO BE ENTITLED AN ACT TO REQUIRE ALL STATE AGENCIES TO RECYCLE ALL SPENT FLUORESCENT LIGHTS AND MERCURY THERMOSTATS; REQUIRE THE REMOVAL OF ALL FLUORESCENT LIGHTS AND MERCURY THERMOSTATS FROM BUILDINGS PRIOR TO DEMOLITION; AND BAN MERCURY-CONTAINING PRODUCTS FROM UNLINED

LANDFILLS. Proposed committee substitute 2 was distributed to the committee and Representative Floyd made a motion that the PCS be placed before the committee. This passed without objection. Representative Harrison was recognized to explain the PCS. Scott Mouw with the Division of Pollution Prevention at the Department of Natural Resources was recognized to assist Representative Harrison in answering questions from the committee. All concerns being adequately addressed, Representative Tarleton made a motion for a favorable report as to committee substitute 2, unfavorable to committee substitute 1. This motion received unanimous approval.

Next on the agenda was HB 924 - A BILL TO BE ENTITLED AN ACT CONCERNING PUBLIC-PRIVATE REIMBURSEMENT AGREEMENTS FOR PARK INFRASTRUCTURE DEVELOPMENT BY MECKLENBURG COUNTY. In the absence of the bill's primary sponsor, Representative Carney, Representative Samuelson was recognized to explain the bill on her behalf. With no questions or comments from committee members, Representative Owens made a motion for a favorable report. This motion passed without objection.

Representative McComas was recognized to explain Committee Substitute for HB 1378 - A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT THE OWNER OR OPERATOR OF CERTAIN MARINAS SHALL INSTALL AND MAINTAIN PUMPOUT FACILITIES BY JULY 1, 2010, TO PROHIBIT THE DISCHARGE OF EFFLUENT FROM A VESSEL INTO CERTAIN COASTAL WATERS, TO REQUIRE THE OWNER OR OPERATOR OF ANY MARINA WHO KNOWS THAT A VESSEL DOCKED AT THE MARINA HAS UNLAWFULLY DISCHARGED SEWAGE INTO COASTAL WATERS TO REPORT THE UNLAWFUL DISCHARGE TO THE APPROPRIATE LAW ENFORCEMENT AGENCY, TO REQUIRE VESSEL OWNERS AND OPERATORS TO KEEP A LOG REGARDING THE DATE AND LOCATION OF PUMPOUTS, AND TO PROVIDE THAT A PILOT PROGRAM IN NEW HANOVER COUNTY SHALL BE DESIGNED AND IMPLEMENTED BY THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO BEGIN PHASING IN THE PUMPOUT STATION REQUIREMENTS. A proposed committee substitute for the bill was distributed and Representative Floyd moved that committee substitute 2 be placed before the committee. There being no objection, the motion passed. Questions were addressed by Representative McComas and Jennifer McGinnis, Committee Counsel, to the satisfaction of the committee. Representative Blackwood moved for a favorable report as to the committee substitute bill 2, unfavorable to committee substitute 1. This motion received unanimous support.

Next on the agenda was HB 1388 - A BILL TO BE ENTITLED AN ACT TO EXPAND THE PUBLIC NOTICE REQUIREMENT REGARDING A PROSPECTIVE DEVELOPER'S INTENT TO REDEVELOP A BROWNFIELDS PROPERTY AND TO REMOVE THE CONDITION UNDER WHICH THE REGISTER OF DEEDS IS NOT REQUIRED TO RECORD THE CANCELLATION OF THE NOTICE OF BROWNFIELDS PROPERTY AFTER THE HAZARDS HAVE BEEN ELIMINATED. Representative Fisher was recognized to explain the bill. As a proposed committee substitute was being distributed, Representative Floyd made a motion that it be placed before the committee for consideration. This motion passed without objection. Following Representative Fisher's remarks, the committee was allowed to ask questions, which were addressed by Representative Fisher with the assistance of Bruce Nicholson, Program Manager with the Brownfields Section of the Department of Environment and Natural Resources. Representative Floyd made a motion for a favorable report as to the committee substitute bill, unfavorable as to the original bill, and a recommendation that the PCS

be referred to the Committee on Commerce, Small Business, and Entrepreneurship. This motion passed unanimously.

The final bill on the agenda was HB 1175 - A BILL TO BE ENTITLED AN ACT TO UPDATE THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITTING REQUIREMENTS FOR CONFINED ANIMAL FEEDING OPERATIONS (CAFOS). Representative Hill was recognized for a brief explanation. The single question from the committee was addressed by Keith Lorick with the Division of Water Quality at the Department of Environment and Natural Resources. Representative Haire was recognized for a motion for a favorable report for HB 1175, which passed without objection.

With no further business to come before the committee, the meeting was adjourned at 1:50 p.m.

Respectfully submitted,

Representative Lucy T. Allen, Chair

Shara Graham, Committee Assistant

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE

MEETING

May 11, 2009
12:00 NOON
Room 643 LOB

Representative Lucy T. Allen, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

HB 569	DWQ/Bridge Culvert Standards	Representative Gibson
HB 617	Limit Outside Work for DENR/Local Staff.	Representative Allen
HB 709	Environmental Technical Corrections 2009.	Representative Allen Representative Gibson, III
HB 713	Env./Nat. Res. Reports Consolidation 2009.	Representative Allen Representative Gibson, III
HB 782	Safe Artificial Slope Construction Act	Representative Rapp Representative Fisher
HB 924	Mecklenburg County/Reimbursement Agreements.	Representative Carney
HB 1100	Stormwater Control BMP's for Compost/Mulch.	Representative Allen
HB 1175	Update NPDES Permitting for CAFOs.	Representative Hill
HB 1287	Recycle Products Containing Mercury.	Representative Harrison Representative Burris-Floyd
HB 1335	No Duplicative Regulation of Air Toxics.	Representative Gibson, III
HB 1378	Clean Marinas/Pumpout Stations	Representative McComas
HB 1388	Brownfields Property Notifications	Representative Fisher
HB 1399	Capacity Use Areas Enforcement	Representative Braxton

ADJOURNMENT

HOUSE BILL 782

Short Title:	Safe Artificial Slope Construction Act.	(Public)
Sponsors:	Representatives Rapp, Fisher, Haire (Primary Sponsors); Glazier, Harrison, and Insko.	
Referred to:	Environment and Natural Resources, if favorable, Finance, if favorable, Appropriations.	

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO (1) REQUIRE LOCAL GOVERNMENTS TO ADOPT ORDINANCES TO REGULATE SITE PLANNING, DESIGN, AND CONSTRUCTION OF ARTIFICIAL SLOPES IN MOUNTAINOUS AREAS TO PROMOTE SAFE AND STABLE SLOPES FOR DEVELOPMENT, TO REDUCE THE LIKELIHOOD OF SLOPE FAILURES ON DEVELOPED OR DISTURBED LAND, AND TO PROTECT HUMAN SAFETY AND PROPERTY; (2) DIRECT THE SEDIMENTATION CONTROL COMMISSION TO ASSIST LOCAL GOVERNMENTS IN DEVELOPMENT AND IMPLEMENTATION OF SAFE SLOPE CONSTRUCTION PROGRAMS AND TO DEVELOP A MODEL ORDINANCE; AND (3) PROVIDE FOR DISCLOSURE OF INFORMATION TO PURCHASERS OF PROPERTIES LOCATED IN CERTAIN AREAS DESIGNATED ON STABILITY INDEX MAPS PREPARED BY THE NORTH CAROLINA GEOLOGICAL SURVEY.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 113A of the General Statutes is amended by adding a new Article to read as follows:

"Article 19.

"Safe Artificial Slope Construction.

"**§ 113A-261. Short title.**

This act shall be known as the Safe Artificial Slope Construction Act of 2009.

"**§ 113A-262. Definitions.**

The definitions set forth in G.S. 113A-52 apply to this Article. In addition, the following definitions apply to this Article:

(1) 'Affected area' means an area located on a mountain face or steep hillside that (i) has a slope of forty percent (40%) or greater, or (ii) is designated with a slide hazard ranking of 'moderate' or 'high' on a Stability Index Map prepared by the North Carolina Geological Survey.

(2) 'Artificial slope construction' means any slope-disturbing activity that creates or changes any slope, or attempts to do so.

(3) 'Construction' means any slope-disturbing activity, and includes reconstruction, repair, stabilization, alteration, or expansion.

(4) 'Slope-disturbing activity' means any use of the land by any person in residential, industrial, educational, institutional, or commercial development, and highway and road construction and maintenance that results in removal of ground cover or a change in topography of the land.

(5) 'Slope' means an inclined ground or earth material surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

"**§ 113A-263. Legislative findings.**

Improper development on steep slopes poses a threat to human safety and property. Economic pressures, unknown site conditions, inadequate or inappropriate design, and inexperienced persons conducting slope-disturbing activity can affect the quality, safety, and stability of development on steep slopes. It is the intent of this Article to require implementation of reasonable, effective control standards for artificial slope construction and to improve construction and development practices that will result in higher levels of safety and stability on developed land and to decrease the potential for damage to human health, property, and natural resources.

"**§ 113A-264. Purpose.**

This Article provides for a cooperative program of safe artificial slope construction to be administered by local governments consistent with minimum statewide management requirements established by the Sedimentation Control Commission. If a local government required to do so fails to adopt a safe artificial slope construction ordinance or does not adequately carry out its responsibility to enforce its approved program, the Commission shall administer and enforce the minimum statewide requirements.

"**§ 113A-265. Duties of the Sedimentation Control Commission.**

(a) Identification of Affected Areas. – The Commission shall identify the jurisdictions that are required to adopt ordinances pursuant to this Article by showing them on a map or drawing, describing them in a document, or any combination thereof. These maps, drawings, or documents shall identify the affected areas within the jurisdiction. The Commission shall file this information with the governing body of each identified jurisdiction. Determinations by the Commission of affected areas under this section shall be conclusive in the absence of fraud.

(b) Development of Safe Artificial Slope Construction Requirements. – The Commission shall adopt rules for the safe construction of artificial slopes in affected areas, including, but not limited to, minimum requirements for:

(1) Adequate site assessment, planning, design, and technical standards for construction of stable artificial slopes.

(2) Submission, review, approval and disapproval, and modification procedures for safe artificial slope construction plans. These plans shall be prepared by a licensed engineer and approved by the agency having jurisdiction prior to initiation of any artificial slope construction activity in affected areas. Any artificial slope construction in affected areas shall be conducted in compliance with an approved plan.

(3) Demonstrations of financial responsibility.

(4) Submission of reports to document compliance.

(5) Inspection and enforcement procedures.

(6) Exemptions applicable to certain activities.

(c) Assistance to Local Governments. – The Commission shall provide assistance to local governments in the development of safe artificial slope construction programs that comply with this Article. Local government programs shall include a local ordinance and shall provide for inspection and enforcement procedures. As part of its assistance to local governments, the Commission shall approve and make available a model safe artificial slope construction ordinance. The safe artificial slope construction ordinance shall, at a minimum, address the requirements set forth in subsection (b) of this section.

(d) Review and Approval of Local Ordinances Required. – The Commission shall review each ordinance that regulates the construction of artificial slopes in affected areas submitted by a local government pursuant to G.S. 113A-266 and, within 90 calendar days of receipt thereof, shall notify the local government submitting the ordinance that the ordinance

has been approved, approved with modifications, or disapproved. The Commission shall approve an ordinance only if it determines that the requirements of the ordinance meet or exceed the requirements of this Article and rules adopted thereunder.

(e) Assumption of Local Programs. – The Commission shall assume responsibility for safe artificial slope construction programs in affected areas if a local government fails to adopt an ordinance that meets the requirements of this Article or if a local government fails to adequately administer and enforce the provisions of an adopted ordinance. The Commission shall not assume responsibility for a program until it notifies the local government in writing by certified mail, return receipt requested, of local program deficiencies, recommendations for changes and improvements in the local program, and the deadline for compliance. The Commission shall allow a local government a minimum of 120 calendar days to bring its program into compliance. The Commission shall order assumption of a local program if it finds that the local government has made no substantial progress toward compliance. The Commission may make this finding at any time between 120 calendar days and 365 calendar days after receipt of notice under this subsection by the local government, with no further notice. Proceedings to review a Commission order to assume responsibility for a local program shall be conducted by the superior court pursuant to Article 4 of Chapter 150B of the General Statutes based on the agency record submitted by the Commission.

(f) Delegation to State Agencies. – The Commission may delegate authority to implement a safe artificial slope construction program to a State agency. A State agency may request that the Commission delegate the authority to implement a safe artificial slope construction program to the agency and submit a proposed safe artificial slope construction program to the Commission for approval. The Commission may delegate authority to implement the program to the agency if it finds that the agency's proposed safe artificial slope construction program is consistent with or provides greater protection than the requirements of this Article and rules adopted pursuant to this Article. If the authority to implement a safe artificial slope construction program is delegated to a State agency as provided in this subsection, the delegated program of the State agency shall govern any slope construction activities conducted by the State agency in an affected area, and the State agency shall not be subject to a safe slope construction ordinance adopted by a local government having jurisdiction over an affected area. If a State agency with a delegated program fails to adequately administer and enforce the provisions of the delegated program, the Commission shall assume responsibility for the safe artificial slope construction program of the State agency. The Commission shall not assume responsibility for a program until it notifies the State agency in writing by certified mail, return receipt requested, of the program deficiencies, recommendations for changes and improvements in the program, and the deadline for compliance. The Commission shall allow a State agency a minimum of 120 calendar days to bring its program into compliance. The Commission shall order assumption of a program if it finds that the State agency has made no substantial progress toward compliance. The Commission may make this finding at any time between 120 calendar days and 365 calendar days after receipt of notice under this subsection by the State agency, with no further notice.

(g) Fees. – If the Commission assumes responsibility for a safe artificial slope construction program in an affected area pursuant to subsection (e) or (f) of this section, the Commission shall collect a fee of one hundred dollars ($100.00) per acre or partial acre of disturbed land as shown on an artificial slope construction plan or of land actually disturbed during the life of the slope construction project, whichever is greater, for review of the artificial slope construction plan and related activities. This subsection may not limit the existing authority of local programs approved pursuant to this Article to assess fees for the approval of artificial slope construction plans.

(h) Safe Artificial Slope Construction Account. – The Safe Artificial Slope Construction Account is established as a nonreverting account within the Department. Fees

collected under this section shall be credited to the Account and shall be applied to the costs of administering this Article.

"**§ 113A-266. Mandatory local programs.**

(a) Adoption of Ordinance Required. – Each county that has within its jurisdiction an affected area shall adopt an ordinance that regulates the construction of artificial slopes in affected areas by any person. The ordinance shall apply in unincorporated areas within the county and to incorporated areas within the county except that a city may adopt an ordinance in which case the municipal ordinance shall apply within the city and the extraterritorial jurisdiction of the city. The ordinance shall at least meet and may exceed the minimum requirements of this Article and rules adopted pursuant to this Article.

(b) Review and Approval of Ordinance Required. – Prior to adoption of an ordinance that regulates the construction of artificial slopes in affected areas, or modification of the ordinance, a local government shall submit the ordinance to the Commission for review and receive approval from the Commission for the ordinance.

(c) Public Hearing. – The governing body of a local government must hold a public hearing on the question of adoption of an ordinance that regulates the construction of artificial slopes in affected areas prior to adoption. The public hearing required by this section shall be held upon at least 10 calendar days' notice in a newspaper of general circulation in the jurisdiction adopting the ordinance. Testimony at the hearing shall be recorded, and any and all exhibits shall be preserved within the custody of the governing body of the local government. The testimony and evidence shall be made available for inspection and scrutiny by any person.

(d) Filing of Documents. – Each local government that adopts an ordinance pursuant to the provisions of this Article shall file a copy of the ordinance with the Commission. The local government shall file the information provided by the Commission pursuant to G.S. 113A-265(a) with the register of deeds in the jurisdiction where the affected area is located. Copies of the maps, drawings, or documents that are certified by the register of deeds shall be admitted in evidence in all courts and shall have the same force and effect as would the original.

(e) Application of Ordinance by Local Governments. – An ordinance adopted pursuant to the provisions of this Article shall apply to all affected areas as defined in G.S. 113A-262 within the jurisdiction. A local government may apply the ordinance to other areas within its jurisdiction if it finds that this application is reasonably necessary to protect against some or all of the hazards or problems set forth in G.S. 113A-263. Determinations by a local government of affected areas made pursuant to the provisions of this Article shall be conclusive in the absence of fraud.

(f) Fees. – An ordinance adopted by a local government may establish a fee for the review of an artificial slope construction plan and related activities.

(g) Implementation and Enforcement. – Each local government that is required to adopt an ordinance pursuant to the provisions of this Article shall implement and enforce the ordinance in accordance with the requirements of this Article and rules adopted thereunder.

(h) Creation or Designation of Agencies to Administer; Joint Programs. – Local governments are authorized to create or designate agencies or subdivisions of local government to administer and enforce the ordinance. Two or more units of local government are authorized to establish a joint program and to enter into any agreements that are necessary for the proper administration and enforcement of a safe artificial slope construction ordinance. The resolutions establishing any joint program must be duly recorded in the minutes of the governing body of each local government participating in the program, and a certified copy of each resolution must be filed with the Commission.

"**§ 113A-267. Enforcement and penalties.**

(a) Civil Penalties. –

(1) The Commission may assess a civil penalty of not more than ten thousand dollars ($10,000) per month against any local government that fails to adopt a safe artificial slope construction ordinance as required by this Article or willfully fails to administer or enforce the provisions of its program in substantial compliance with the minimum statewide safe slope construction requirements of this Article. The Commission shall not impose a penalty against a local government pursuant to this subsection until the Commission has assumed the responsibility for administering and enforcing the safe slope construction program. Civil penalties shall be imposed pursuant to a uniform schedule adopted by the Commission. The schedule of civil penalties shall be designed to recoup the costs of administration and enforcement.

(2) The Commission or a local government that administers a safe slope construction program may assess a civil penalty against any person who violates any of the provisions of this Article or any ordinance, rule, or order adopted or issued pursuant to this Article by the Commission or by a local government or who initiates or continues a slope construction activity for which an artificial slope construction plan is required except in accordance with the terms, conditions, and provisions of an approved plan. The maximum civil penalty for a violation is five thousand dollars ($5,000). A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation.

a. The Commission or a local government that administers a safe slope construction program shall determine the amount of the civil penalty and shall notify the person who is assessed the civil penalty of the amount of the penalty and the reason for assessing the penalty. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator to either pay the assessment or contest the assessment within 30 calendar days by filing a petition for a contested case under Article 3 of Chapter 150B of the General Statutes. If a violator does not pay a civil penalty assessed by the Commission within 30 calendar days after it is due, the Department shall request the Attorney General to institute a civil action to recover the amount of the assessment. If a violator does not pay a civil penalty assessed by a local government within 30 calendar days after it is due, the local government may institute a civil action to recover the amount of the assessment. The civil action may be brought in the superior court of any county where the violation occurred or the violator's residence or principal place of business is located. A civil action must be filed within three years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment.

b. In determining the amount of the penalty, the Commission or a local government that administers a safe slope construction program shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator saved by noncompliance, whether the violation was committed willfully, and the prior record of the violator in complying or failing to comply with this Article.

(3) The clear proceeds of civil penalties collected by the Commission under this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Civil penalties collected by a local government under this subsection shall be used as provided in Section 7 of Article IX of the Constitution of North Carolina.

(b) Criminal Penalties. – Any person who knowingly or willfully violates any provision of this Article or any ordinance, rule, regulation, or order duly adopted or issued by the Commission or a local government, or who knowingly or willfully initiates a slope construction activity for which an artificial slope construction plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a Class 2 misdemeanor that may include a fine not to exceed five thousand dollars ($5,000).

(c) Injunctive Relief. –

(1) Whenever the governing body of a local government having jurisdiction has reasonable cause to believe that any person is violating or is threatening to violate any ordinance, rule, regulation, or order adopted or issued by the local government pursuant to this Article, or any term, condition, or provision of an artificial slope construction plan over which it has jurisdiction, may, either before or after the institution of any other action or proceeding authorized by this Article, institute a civil action in the name of the local government for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the superior court of the county in which the violation is occurring or is threatened.

(2) Whenever the Commission has reasonable cause to believe that any person is violating or is threatening to violate the requirements of this Article, the Commission may, either before or after the institution of any other action or proceeding authorized by this Article, institute a civil action for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the superior court of the county in which the violation or threatened violation is occurring or about to occur and shall be in the name of the State upon the relation of the Commission.

(3) Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under subdivision (1) or (2) of this subsection shall not relieve any party to the proceeding from any civil or criminal penalty prescribed for violations of this Article."

SECTION 2. G.S. 143B-298 reads as rewritten:

"**§ 143B-298. Sedimentation Control Commission – creation; powers and duties.**

(a) There is hereby created the Sedimentation Control Commission of the Department of Environment and Natural Resources with the power and duty to develop and administer a sedimentation control program as herein provided.

(b) The Sedimentation Control Commission has the following powers and duties:

(1) In cooperation with the Secretary of the Department of Transportation and Highway Safety and other appropriate State and federal agencies, develop, promulgate, publicize, and administer a comprehensive State erosion and sedimentation control program.

(2) Develop and adopt on or before July 1, 1974, rules and regulations for the control of erosion and sedimentation pursuant to G.S. 113A-54.

(3) Conduct public hearings pursuant to G.S. 113A-54.

(4) Assist local governments in developing erosion and sedimentation control programs pursuant to G.S. 113A-60.

(5) Assist and encourage other State agencies in developing erosion and sedimentation control programs pursuant to G.S. 113A-56.

(6) Develop recommended methods of control of sedimentation and prepare and make available for distribution publications and other materials dealing with sedimentation control techniques pursuant to G.S. 113A-54.

(7) Adopt rules for the safe construction of artificial slopes in affected areas as provided in G.S. 113A-265(b) and develop a model safe artificial slope construction ordinance as provided in G.S. 113A-265(c).

(8) Assist local governments in developing safe artificial slope construction programs pursuant to G.S. 113A-265 and assume responsibility for a local program as authorized by that section."

SECTION 3. G.S. 47E-4(b) reads as rewritten:

"(b) The North Carolina Real Estate Commission shall develop and require the use of a standard disclosure statement to comply with the requirements of this section. The disclosure statement shall specify that certain transfers of residential property are excluded from this requirement by G.S. 47E-2, including transfers of residential property made pursuant to a lease with an option to purchase where the lessee occupies or intends to occupy the dwelling, and shall include at least the following characteristics and conditions of the property:

(1) The water supply and sanitary sewage disposal ~~system;~~system.

(2) The roof, chimneys, floors, foundation, basement, and other structural components and any modifications of these structural ~~components;~~components.

(3) The plumbing, electrical, heating, cooling, and other mechanical ~~systems;~~systems.

(4) Present infestation of wood-destroying insects or organisms or past infestation the damage for which has not been ~~repaired;~~repaired.

(5) The zoning laws, restrictive covenants, building codes, and other land-use restrictions affecting the real property, any encroachment of the real property from or to adjacent real property, and notice from any governmental agency affecting this real ~~property; and~~property.

(6) Presence of lead-based paint, asbestos, radon gas, methane gas, underground storage tank, hazardous material or toxic material (whether buried or covered), and other environmental contamination.

(7) The location of the property within an area ranked as high or moderate relative debris/earth flow/slide hazard area as designated on maps prepared by the North Carolina Geological Survey.

(b1) The disclosure statement shall provide the owner with the option to indicate whether the owner has actual knowledge of the specified characteristics or conditions, or the owner is making no representations as to any characteristic or condition."

SECTION 4. There is appropriated from the General Fund to the Department of Environment and Natural Resources the sum of forty thousand dollars ($40,000) for the 2009-2010 fiscal year and the sum of forty thousand dollars ($40,000) for the 2010-2011 fiscal year to implement the provisions of this act.

SECTION 5. Section 1 of this act becomes effective October 1, 2010, except that G.S. 113A-265, as enacted by Section 1 of this act, becomes effective when this act becomes law. Sections 2 and 5 of this act become effective when it becomes law. Section 3 of this act becomes effective December 1, 2009. Each local government that is required to adopt a safe artificial slope construction ordinance pursuant to the provisions of G.S. 113A-266, as enacted

by Section 1 of this act, shall submit its ordinance to the Sedimentation Control Commission for approval on or before July 1, 2009. Section 4 of this act becomes effective July 1, 2009.

HOUSE BILL 782:
Safe Artificial Slope Construction Act

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Finance, if favorable, Appropriations	**Date:**	May 11, 2009
Introduced by:	Reps. Rapp, Fisher, Haire	**Prepared by:**	Jennifer McGinnis Committee Counsel
Analysis of:	PCS to First Edition H782-CSRI-19		

SUMMARY: ***The Proposed Committee Substitute (PCS) for House Bill 782 would create the Safe Artificial Slope Construction Study Commission to study the need for and advisability of establishing minimum statewide management requirements for safe artificial slope construction in mountainous areas of the State.***

CURRENT LAW: The General Statutes do not currently regulate construction of artificial slopes. Several local governments in the western region of the State, however, have enacted or considered enactment of ordinances to govern such construction over the past several years.

BILL ANALYSIS: The PCS would create the Safe Artificial Slope Construction Study Commission (Commission). The Commission would be composed of eight members, four appointed by the Speaker of the House, and four appointed by the President Pro Tempore of the Senate. The PCS directs the Commission, with the assistance of the Department of Environment and Natural Resources and the North Carolina Geological Survey to study the need for and advisability of establishing minimum statewide management requirements for safe artificial slope construction in mountainous areas of the State. The Commission would be charged with collecting pertinent research and information, preparing a draft report and recommendations, and holding at least two public meetings in the western region of the State to present the report and recommendations to interested parties. The Commission would be required to present its findings and recommendations to the General Assembly and the Environmental Review Commission on or before May 1, 2010.

EFFECTIVE DATE: The PCS would be effective when it becomes law.

H782-SMRI-41(CSRI-19) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 782
PROPOSED COMMITTEE SUBSTITUTE H782-CSRI-19 [v.3]

5/9/2009 12:20:09 PM

Short Title: Safe Artificial Slope Construction Act. (Public)

Sponsors:

Referred to:

March 26, 2009

AN ACT TO CREATE THE SAFE ARTIFICIAL SLOPE CONSTRUCTION STUDY COMMISSION TO EXAMINE THE NEED FOR AND ADVISABILITY OF ESTABLISHING MINIMUM STATEWIDE MANAGEMENT REQUIREMENTS FOR SAFE ARTIFICIAL SLOPE CONSTRUCTION IN MOUNTAINOUS AREAS OF THE STATE IN ORDER TO PROMOTE SAFE AND STABLE SLOPES FOR DEVELOPMENT, TO REDUCE THE LIKELIHOOD OF SLOPE FAILURES ON DEVELOPED OR DISTURBED LAND, AND TO PROTECT HUMAN SAFETY AND PROPERTY.

Whereas, there is a significant slope movement hazard in North Carolina, mainly in the mountainous western region of the State;

Whereas, in September 2004, intense rainfall from the remnants of Hurricanes Frances and Ivan triggered at least 130 landslides that caused multiple deaths, destroyed many homes, and disrupted transportation corridors throughout western North Carolina

Whereas, in 2005 the General Assembly passed the Hurricane Recovery Act that provided funding for a landslide hazard mapping program for certain western counties;

Whereas, western North Carolina has experienced a substantial increase in residential development recently, which exposes more individuals to landslide hazards;

Whereas, improper development on steep slopes poses a threat to human safety and property;

Whereas, economic pressures, unknown site conditions, inadequate or inappropriate design, and inexperienced persons conducting slope-disturbing activity can affect the quality, safety, and stability of development on steep slopes;

Whereas, it is the intent of the General Assembly to study the feasibility and advisability of requiring implementation of reasonable, effective control standards for artificial slope construction in order to improve construction and development practices to achieve higher levels of safety and stability on developed land and to decrease the potential for damage to human health, property, and natural resources; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Commission Established. – The Safe Artificial Slope Construction Study Commission is hereby established.

SECTION 2. Membership. –The Commission shall consist of 8 members as follows:

(1) Four members appointed by the President Pro Tempore of the Senate.
(2) Four members appointed by the Speaker of the House of Representatives.

SECTION 3. Cochairs. – The Commission shall have two cochairs, one designated by the President Pro Tempore of the Senate and one designated by the Speaker of the House of Representatives from among their respective appointees. The Commission shall meet upon the call of the cochairs.

SECTION 4. Quorum. – A quorum of the Commission shall consist of five members.

SECTION 5. Vacancies. – Any vacancy on the Commission shall be filled by the original appointing authority.

SECTION 6. Purpose and Duties. – The Commission shall, with the assistance of the Department of Environment and Natural Resources and the North Carolina Geological Survey:

(1) Study issues related to safe artificial slope construction in mountainous areas. The Commission may specifically study the need for and advisability of establishing minimum statewide management requirements for safe artificial slope construction in mountainous areas of the State. The Commission may also consider issues related to the recordation and disclosure of natural hazards; environmental permit conditions and limitations and land-use restrictions associated with real property located in mountainous and other areas of the State, and any other issues the Commission deems relevant.
(2) Collect research and information on: (i) landslide types, events, causes, and triggers, including elevations and slope angles at which landslides may be more likely to occur; (ii) technical requirements that may be applied to artificial slope construction; (iii) any other issues deemed relevant.
(3) Prepare a draft report with a statement of the issues, a summary of the research, and recommendations to address safe artificial slope construction.
(4) Hold at least two public meetings in the western region of the State to present the draft report and recommendations to the public and user groups.

SECTION 7. Expenses of Members. – Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1.

SECTION 8. Staff. – Upon the prior approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to the Commission to aid in its work.

SECTION 9. Consultants. – The Commission may hire consultants to assist with the study as provided in G.S. 120-32.02(b).

SECTION 10. Meetings. – The Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission.

SECTION 11. Report. – The Commission shall report its findings and recommendations to the General Assembly and the Environmental Review Commission on or before May 1, 2010, at which time the Commission shall terminate.

SECTION 12. Funding. – From funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the purpose of conducting the study provided for in this act.

SECTION 13. Effective Date. – This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. H782-CSRI-19[v.3] DATE 5-11-09

S. B. No. _____ Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.) Gillespie
(Sen.)

moves to amend the bill on page p. 2 between line 2 & 3 by inserting between those lines

( ) WHICH CHANGES THE TITLE

by

"Section 2. (a) Geographic and political Representation. — In making appointments pursuant to section 2 of this act, the President Pro Tempore and the Speaker shall each appoint at least two members from the mountain region of the State." The PPT and Speaker shall each appoint at least one member from the minority political party.

and p. 2, lines 30 to 31 by inserting between those lines

"(5) consult with all parties interested in the ~~subject~~ issues being considered by the commission."

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 782
PROPOSED COMMITTEE SUBSTITUTE H782-PCS80423-RI-19

Short Title: Safe Artificial Slope Construction Act. (Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO CREATE THE SAFE ARTIFICIAL SLOPE CONSTRUCTION STUDY COMMISSION TO EXAMINE THE NEED FOR AND ADVISABILITY OF ESTABLISHING MINIMUM STATEWIDE MANAGEMENT REQUIREMENTS FOR SAFE ARTIFICIAL SLOPE CONSTRUCTION IN MOUNTAINOUS AREAS OF THE STATE IN ORDER TO PROMOTE SAFE AND STABLE SLOPES FOR DEVELOPMENT, TO REDUCE THE LIKELIHOOD OF SLOPE FAILURES ON DEVELOPED OR DISTURBED LAND, AND TO PROTECT HUMAN SAFETY AND PROPERTY.

Whereas, there is a significant slope movement hazard in North Carolina, mainly in the mountainous western region of the State; and

Whereas, in September 2004, intense rainfall from the remnants of Hurricanes Frances and Ivan triggered at least 130 landslides that caused multiple deaths, destroyed many homes, and disrupted transportation corridors throughout western North Carolina; and

Whereas, in 2005 the General Assembly passed the Hurricane Recovery Act, which provided funding for a landslide hazard mapping program for certain western counties; and

Whereas, western North Carolina has experienced a substantial increase in residential development recently, which exposes more individuals to landslide hazards; and

Whereas, improper development on steep slopes poses a threat to human safety and property; and

Whereas, economic pressures, unknown site conditions, inadequate or inappropriate design, and inexperienced persons conducting slope-disturbing activity can affect the quality, safety, and stability of development on steep slopes; and

Whereas, it is the intent of the General Assembly to study the feasibility and advisability of requiring implementation of reasonable, effective control standards for artificial slope construction in order to improve construction and development practices to achieve higher levels of safety and stability on developed land and to decrease the potential for damage to human health, property, and natural resources; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Commission established. – The Safe Artificial Slope Construction Study Commission is hereby established.

SECTION 2. Membership. – The Commission shall consist of eight members as follows:

(1) Four members appointed by the President Pro Tempore of the Senate.

(2) Four members appointed by the Speaker of the House of Representatives.

SECTION 2.(a) Geographic and Political Representation. – In making appointments pursuant to Section 2 of this act, the President Pro Tempore and the Speaker of the House of Representatives shall each appoint at least two members from the mountain region of the State. The President Pro Tempore and the Speaker of the House of Representatives shall each appoint at least one member from the minority political party.

SECTION 3. Cochairs. – The Commission shall have two cochairs, one designated by the President Pro Tempore of the Senate and one designated by the Speaker of the House of Representatives from among their respective appointees. The Commission shall meet upon the call of the cochairs.

SECTION 4. Quorum. – A quorum of the Commission shall consist of five members.

SECTION 5. Vacancies. – Any vacancy on the Commission shall be filled by the original appointing authority.

SECTION 6. Purpose and duties. – The Commission shall, with the assistance of the Department of Environment and Natural Resources and the North Carolina Geological Survey:

(1) Study issues related to safe artificial slope construction in mountainous areas. The Commission may specifically study the need for and advisability of establishing minimum statewide management requirements for safe artificial slope construction in mountainous areas of the State. The Commission may also consider issues related to the recordation and disclosure of natural hazards, environmental permit conditions and limitations and land-use restrictions associated with real property located in mountainous and other areas of the State, and any other issues the Commission deems relevant.

(2) Collect research and information on: (i) landslide types, events, causes, and triggers, including elevations and slope angles at which landslides may be more likely to occur; (ii) technical requirements that may be applied to artificial slope construction; and (iii) any other issues deemed relevant.

(3) Prepare a draft report with a statement of the issues, a summary of the research, and recommendations to address safe artificial slope construction.

(4) Hold at least two public meetings in the western region of the State to present the draft report and recommendations to the public and user groups.

(5) Consult with all parties interested in the issues being considered by the Commission.

SECTION 7. Expenses of members. – Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1.

SECTION 8. Staff. – Upon the prior approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to the Commission to aid in its work.

SECTION 9. Consultants. – The Commission may hire consultants to assist with the study as provided in G.S. 120-32.02(b).

SECTION 10. Meetings. – The Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission.

SECTION 11. Report. – The Commission shall report its findings and recommendations to the General Assembly and the Environmental Review Commission on or before May 1, 2010, at which time the Commission shall terminate.

SECTION 12. Funding. – From funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the purpose of conducting the study provided for in this act.

SECTION 13. Effective date. – This act is effective when it becomes law.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

HB 782 A BILL TO BE ENTITLED AN ACT TO (1) REQUIRE LOCAL GOVERNMENTS TO ADOPT ORDINANCES TO REGULATE SITE PLANNING, DESIGN, AND CONSTRUCTION OF ARTIFICIAL SLOPES IN MOUNTAINOUS AREAS TO PROMOTE SAFE AND STABLE SLOPES FOR DEVELOPMENT, TO REDUCE THE LIKELIHOOD OF SLOPE FAILURES ON DEVELOPED OR DISTURBED LAND, AND TO PROTECT HUMAN SAFETY AND PROPERTY; (2) DIRECT THE SEDIMENTATION CONTROL COMMISSION TO ASSIST LOCAL GOVERNMENTS IN DEVELOPMENT AND IMPLEMENTATION OF SAFE SLOPE CONSTRUCTION PROGRAMS AND TO DEVELOP A MODEL ORDINANCE; AND (3) PROVIDE FOR DISCLOSURE OF INFORMATION TO PURCHASERS OF PROPERTIES LOCATED IN CERTAIN AREAS DESIGNATED ON STABILITY INDEX MAPS PREPARED BY THE NORTH CAROLINA GEOLOGICAL SURVEY.

☒ With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

HOUSE BILL 617

Short Title:	Limit Outside Work for DENR/Local Staff.	(Public)
Sponsors:	Representatives Allen; and Insko.	
Referred to:	Environment and Natural Resources, if favorable, State Government/State Personnel.	

March 17, 2009

A BILL TO BE ENTITLED

AN ACT TO PREVENT POTENTIAL CONFLICTS OF INTEREST BY PERSONS EMPLOYED BY THE STATE OR ACTING AS AGENTS OF THE STATE WITHIN LOCAL HEALTH DEPARTMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 11 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-339.1. Employment limitations to avoid conflict of interest.**

(a) Any person employed by the State or a local health department, or any person under contract with the State or a local health department, to act as an authorized agent of the Department to enforce rules of the Commission or a local health department regarding wastewater systems shall not evaluate, consult, or provide service maintenance for any wastewater site or any wastewater system regulated by the Department under rules adopted by the Commission or a local board of health unless such activity is performed in the course of their employment by, or their contractual relationship with, the State or local health department.

(b) The limitations under subsection (a) of this section apply to evaluating, consulting, and any other work activity performed as any of the following:

(1) A soil scientist licensed under Chapter 89F of the General Statutes.

(2) A water pollution control system operator certified under Article 3 of Chapter 90A of the General Statutes.

(3) An on-site wastewater contractor or inspector certified under Article 5 of Chapter 90A of the General Statutes.

(c) The limitations under subsection (a) of this section do not apply to authorized agents engaged in such activities when employed by, or under contract with, a joint agency established under G.S. 130A-343.1."

SECTION 2. This act is effective when it becomes law and applies to acts that occur on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 617
PROPOSED COMMITTEE SUBSTITUTE H617-CSRI-16 [v.3]

5/7/2009 11:02:35 AM

Short Title: Limit Outside Work for DENR/Local Staff. (Public)

Sponsors:

Referred to:

March 17, 2009

A BILL TO BE ENTITLED

AN ACT TO PREVENT POTENTIAL CONFLICTS OF INTEREST BY PERSONS EMPLOYED BY THE STATE OR ACTING AS AGENTS OF THE STATE WITHIN LOCAL HEALTH DEPARTMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 11 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-339.1. Employment limitations to avoid conflict of interest.**

(a) Persons employed by the State or a local health department, or any person under contract with the State or a local health department, to act as an authorized agent of the Department to enforce rules of the Commission or a local health department regarding wastewater sites or wastewater systems shall be subject to employment limitations as provided in this section. Such persons shall not evaluate, consult, provide service maintenance, or perform any other work activity for any wastewater site or any wastewater system regulated by the Department under rules adopted by the Commission or a local board of health unless such activity is performed in the course of their employment by, or their contractual relationship with, the State, a local health department, or a joint agency established under G.S. 130A-343.1.

(b) The limitations under subsection (a) of this section apply to evaluating, consulting, providing service maintenance, and any other work activity performed as any of the following:

(1) A soil scientist licensed under Chapter 89F of the General Statutes evaluating any land proposed for any subsurface water system.

(2) A water pollution control system operator certified under Article 3 of Chapter 90A of the General Statutes.

(3) An on-site wastewater contractor or inspector certified under Article 5 of Chapter 90A of the General Statutes."

SECTION 2. This act is effective when it becomes law and applies to acts that occur on or after that date.

HOUSE BILL 617:
Limit Outside Work for DENR/Local Staff

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, State Government/State Personnel	**Date:**	May 5, 2009
Introduced by:	Rep. Allen	**Prepared by:**	Jennifer McGinnis Committee Counsel
Analysis of:	PCS to First Edition H617-CSRI-16		

SUMMARY: ***House Bill 617 would prohibit certain persons employed by or under contract with the State or a local health department to enforce rules applicable to wastewater systems from evaluating, consulting, providing service maintenance, or performing any other work activity for any wastewater site or system unless the activity is within the course of their employment or contract with the State or local health department, or authorized joint agencies. As stated in the bill's long title, the purpose is to prevent potential conflicts of interest.***

CURRENT LAW: There is currently nothing in law that restricts licensed soil scientists, water pollution control operators, and on-site wastewater contractors or inspectors working for the State or a local health department on wastewater systems from working for other entities on wastewater sites or systems simultaneously.

BILL ANALYSIS: The bill would prohibit certain persons employed by or under contract with the State or a local health department to enforce rules applicable to wastewater systems from evaluating, consulting, providing service maintenance, or performing any other work activity for any wastewater site or system unless the activity is within the course of their employment or contract with the State, a local health department, or an authorized joint agency[1]. The bill's restrictions on outside employment only apply to licensed soil scientists, water pollution control operators, and on-site wastewater contractors or inspectors.

EFFECTIVE DATE: The bill would effective when it becomes law and apply to acts that occur on or after that date.

H617-SMRI-36(CSRI-16) v2

[1] Establishment of joint agencies are authorized for certain local governments to own and operate provisionally approved septic tanks or innovative tank systems

AMENDMENT
House Bill 617

H617-ARI-9 [v.2]

AMENDMENT NO. _____
(to be filled in by Principal Clerk)

Page 1 of 1

Comm. Sub. [YES]
Amends Title [NO]
First Edition

Date _____ ,2009

Representative ~~Underhill~~ Gibson

moves to amend the bill on page 1, line 25,
by rewriting that line to read:

"Chapter 90A of the General Statutes."

(4) A professional engineer licensed under Chapter 89C of the General Statutes."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

H617-ARI-9-V-2

AMENDMENT
House Bill 617

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H617-ARI-9 [v.2]

Comm. Sub. [YES]
Amends Title [NO]
First Edition

Date _____,2009

Representative ~~Underhill~~ Gibson

moves to amend the bill on page 1, line 25,
by rewriting that line to read:

"Chapter 90A of the General Statutes."
(4) A professional engineer licensed under Chapter 89C of the General Statutes."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 617
PROPOSED COMMITTEE SUBSTITUTE H617-PCS50684-RI-16

Short Title: Limit Outside Work for DENR/Local Staff. (Public)

Sponsors:

Referred to:

March 17, 2009

A BILL TO BE ENTITLED

AN ACT TO PREVENT POTENTIAL CONFLICTS OF INTEREST BY PERSONS EMPLOYED BY THE STATE OR ACTING AS AGENTS OF THE STATE WITHIN LOCAL HEALTH DEPARTMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 11 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-339.1. Employment limitations to avoid conflict of interest.**

(a) Persons employed by the State or a local health department, or any person under contract with the State or a local health department, to act as an authorized agent of the Department to enforce rules of the Commission or a local health department regarding wastewater sites or wastewater systems shall be subject to employment limitations as provided in this section. Such persons shall not evaluate, consult, provide service maintenance, or perform any other work activity for any wastewater site or any wastewater system regulated by the Department under rules adopted by the Commission or a local board of health unless such activity is performed in the course of their employment by, or their contractual relationship with, the State, a local health department, or a joint agency established under G.S. 130A-343.1.

(b) The limitations under subsection (a) of this section apply to evaluating, consulting, providing service maintenance, and any other work activity performed as any of the following:

(1) A soil scientist licensed under Chapter 89F of the General Statutes evaluating any land proposed for any subsurface water system.

(2) A water pollution control system operator certified under Article 3 of Chapter 90A of the General Statutes.

(3) An on-site wastewater contractor or inspector certified under Article 5 of Chapter 90A of the General Statutes.

(4) A professional engineer licensed under Chapter 89C of the General Statutes."

SECTION 2. This act is effective when it becomes law and applies to acts that occur on or after that date.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

HB 617 A BILL TO BE ENTITLED AN ACT TO PREVENT POTENTIAL CONFLICTS OF INTEREST BY PERSONS EMPLOYED BY THE STATE OR ACTING AS AGENTS OF THE STATE WITHIN LOCAL HEALTH DEPARTMENTS.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on STATE GOVERNMENT/STATE PERSONNEL.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1335
PROPOSED COMMITTEE SUBSTITUTE H1335-CSSB-29 [v.1]

5/6/2009 3:53:37 PM

Short Title: No Duplicative Regulation of Air Toxics. (Public)

Sponsors:

Referred to:

April 9, 2009

A BILL TO BE ENTITLED

AN ACT TO REDUCE STATE REGULATION OF EMISSIONS OF AIR TOXICS WHEN THESE EMISSIONS ARE REGULATED UNDER THE FEDERAL CLEAN AIR ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.107(a) reads as rewritten:

"(a) Duty to Adopt Plans, Standards, etc. – The Commission is hereby directed and empowered, as rapidly as possible within the limits of funds and facilities available to it, and subject to the procedural requirements of this Article and Article 21:

...

(5) To develop and adopt emission control standards as in the judgment of the Commission may be necessary to prohibit, abate, or control air pollution commensurate with established air quality standards. This subdivision does not apply to ~~that portion of the National Emission Standards for Hazardous Air Pollutants for asbestos that governs demolition and renovation as set out in 40 C.F.R. § 61.141, 61.145, 61.150, and 61.154 (1 July 1993 edition).~~an air emission source that is subject to hazardous air pollutant emission standards under 40 C.F.R. Pts. 61 and 63 (July 1, 2008 editions) and that is a Title V source subject to 40 C.F.R. §70.3(a)(1) (July 1, 2008 edition). Notwithstanding the provisions of this section, the Commission may impose additional requirements as may be necessary to abate a condition that endangers public health or welfare consistent with the policies set out in G.S. 143-211(c).

...."

SECTION 2. This act becomes effective July 1, 2009.

HOUSE BILL 1335:
No Duplicative Regulation of Air Toxics

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Commerce, Small Business, and Entrepreneurship	**Date:**	May 11, 2009
Introduced by:	Representative Gibson	**Prepared by:**	Jeff Hudson Committee Counsel
Analysis of:	PCS to First Edition H1335-CSSB-29 [v.1]		

SUMMARY: ***The Proposed Committee Substitute for House Bill 1335 would exempt a facility that emits air pollution from Air Toxics Program emission limits if the facility is subject to certain federal emission control laws.***

CURRENT LAW AND BACKGROUND:

The North Carolina Air Toxics Program (Air Toxics Program) is administered by the Division of Air Quality in the Department of Environment and Natural Resources (DENR). It is a risk-based regulatory program designed to protect the public health by limiting emissions of toxic air pollutants from man-made sources. Some of the program's activities include:

- Assessing emissions through monitoring.

  Inspections and investigations.
- Performing risk assessments and program planning activities to focus efforts toward the reduction of exposures and emissions.
- Developing and implementing control strategies for toxic or hazardous air pollutants.
- Education and outreach activities.
- Emergency air monitoring to rapidly bring air toxics expertise to communities during potentially toxic events.

Under the Air Toxics Program, concentrations for airborne chemicals were established above which the chemical may be considered to have an adverse effect on human health. The chemicals became known as toxic air pollutants and the concentrations became known as acceptable ambient levels. North Carolina has developed acceptable ambient levels for 97 toxic air pollutants. For some airborne chemicals, the acceptable ambient levels established under the Air Toxics Program are more stringent than federal air quality emission limits.

(Information excerpted from the website of the Division of Air Quality in DENR at: http://daq.state.nc.us/toxics/)

BILL ANALYSIS:

The Proposed Committee Substitute for House Bill 1335 (PCS) would exempt a facility that emits air pollution from Air Toxics Program emission limits if the facility is subject to certain federal emission control laws.

FFECTIVE DATE: This act becomes effective July 1, 2009.

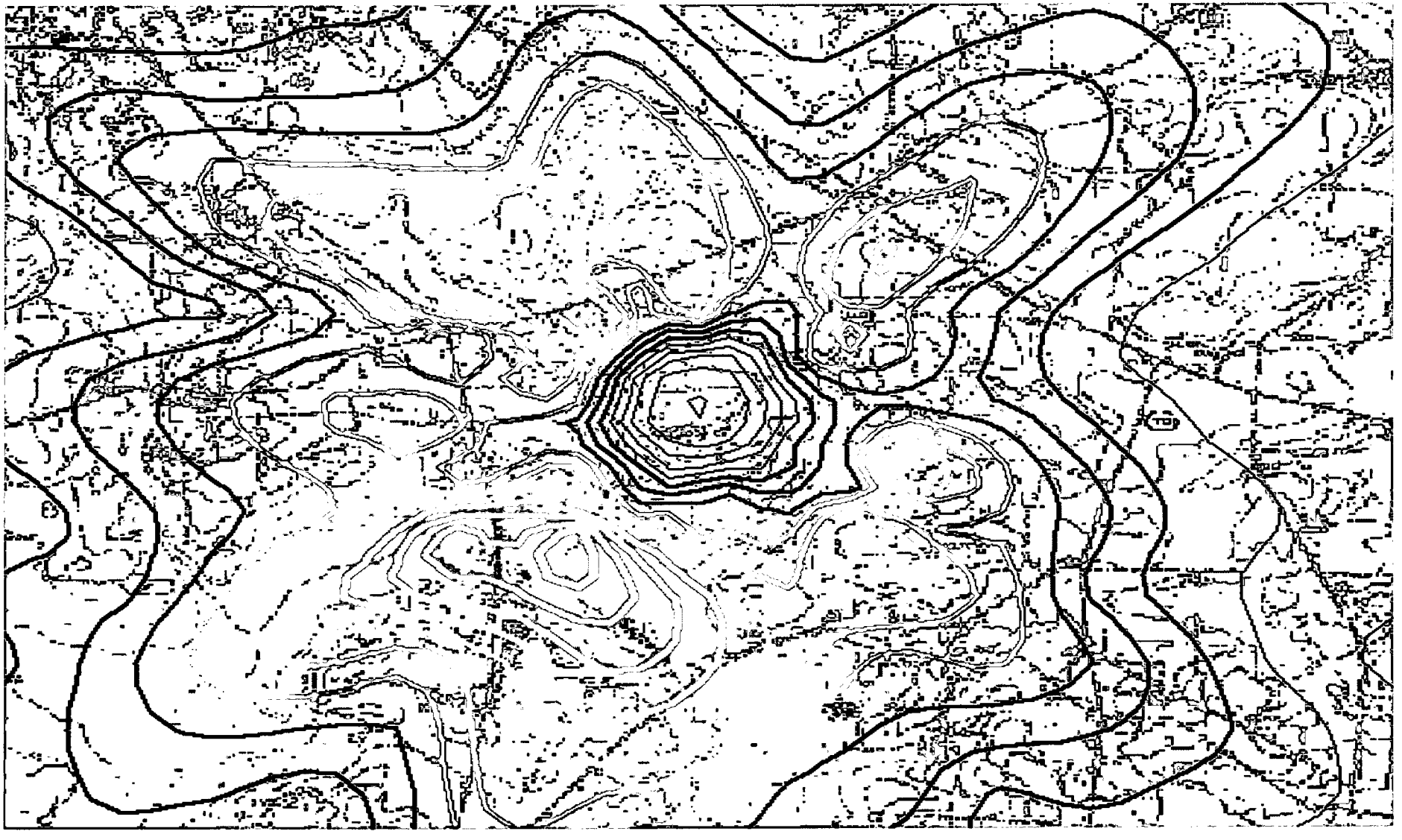
The Following Organizations and Companies Support HB 1335

Manufacturers and Chemical Industry Council of North Carolina
North Carolina Chamber

Air Products and Chemicals, Inc.
Archer Daniels Midland Company
Blue Ridge Paper Products
Carolina Stalite
Celgard
Ciba Specialty Chemicals
Cognis
Corning Incorporated
DAK Americas
Dow Corning
DuPont Company
ENCEE Chemical Sales, Inc
FMC Corporation
General Electric
GlaxoSmithKline
International Paper
Kao Specialties Americas
Kimberly Clark
MeadWestvaco
Novozymes North America
PCS Phosphate Company, Inc.
RJ Reynolds Tobacco Company
Rohm & Haas
Syngenta Crop Protection
Unilin US MDF
Vertellus Performance Materials

Alcoa
BASF Corporation
Cargill
Caterpillar, Inc.
Chemtura
Clariant Corporation
Corn Products International, Inc.
Covidien/Mallinckrodt
Domtar Paper Company, LLC
Duke Energy
Elementis Chromium
Evonik Stockhausen.
Fortron Industries
Georgia-PacificCorporation
Hexion
Invista
Kapstone Kraft Paper Corp.
Lord Corporation
National Starch & Chemical Company
Oak-Bark Corp.
Pressure Chemical Company
Resinall Corporation
Shurtape Technologies, Inc.
Trinity Manufacturing
Univar
Weyerhaeuser Company

Pollutant Concentration Isopleth Example (NC DAQ 11/2007)



RTH CAROLINA AIR TOXICS PROGRAM (eff. 1990)	TITLE V HAZARDOUS AIR POLLUTANT PROGRA (1st of 30+ sectors was eff. 1996; not all rules complete)
97 TAPS (23+ toxics not on CAA list of 188 HAPs)	188 HAPS
List contains carcinogenic and noncarcinogenic substances (such as chemicals that cause acute and/or chronic effects, e.g., eye irritation): human health (welfare - indirect)	List contains carcinogenic and noncarcinogenic substances; human health and welfare
Health-based: Emissions are managed to assure inhalation exposure (ambient level in air) to adults in the vicinity of an emission source is not harmful. "Acceptable Ambient Level" (AAL) health standards.	Technology-based by industry sector: Control technology (Maximum Achievable Control Technology) removes a selected amount of the emissions, e.g., 95%. Health benefit is not a selection criterion for technology.
Protective exposure levels recommended by an independent board of experts (e.g., toxicologists, epidemiologists)	Program seeks spatially large improvements in air quality and cannot always assure healthy levels in the facility's vicinity
Federally regulated facilities are deemed in compliance with State air toxics rules unless the State determines air toxics exceed regulated ambient levels	Federal reg. development schedule has enabled sectors to be extend compliance date with State air toxics program
Regulated facilities can claim economic hardship or technical infeasibility and seek alternate strategies to reduce public exposure to TAPs	Technology-based standard includes consideration of cost to emission source's owner/operator.
Sectors have received exemptions through risk demonstrations, (e.g., furniture) (industrial boilers exemption under EMC review currently)	Risk benefits of MACTs are not until at least 8 years after promulgation for any **residual risk** remaining due to carcinogens. Example where risk remained after MACT: Dry cleaners
Example benefits of program: Trinity Foam, recent issuance of Director's Call letters seeking site-specific risk assessments of 12 facilities. Undocumented health benefits of ongoing program.	

KEY POINTS

- Both the Federal and State programs benefit North Carolina
  - Federal – Broader population and environment
  - North Carolina – Local population, broader population, and environment (indirectly).

- Federal program does not necessarily select the "Best Available" control technology to reduce air emissions (MACT is avg. emission limitation achieved by the best performing 12% of the existing sources).

- NC's program makes health protection its primary mission.

- Federal program does not assess human health risk until at least 8 years after technology-based standard is promulgated. Eight-year schedule has seen delays, also.

- Federal program considers cost in selecting sector-based emission control technology.

- NC's program does not require Federally-regulated facilities to enter the State's air toxics program until after their Federal standard is promulgated. Facilities are deemed in compliance with State. air toxics rules unless the State determines air toxics exceed regulated ambient levels.

- NC's program allows consideration of economic infeasibility on a case-by-case basis.

- NC's program received an in depth stakeholder evaluation in 1995; regulatory update in 1998.

- Federal Program is based on the 1990 Clean Air Act Amendments.

- NC's program considers the co-benefits of the Federal program if standards are implemented in a timely fashion.

- NC's program has proven beneficial to citizen health by
  - periodic peer-reviewed updates of health-based standards
  - successful implementation of procedures for imminent threats
  - increased corporate accountability through citizen awareness of the State's program

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

HB 1335 A BILL TO BE ENTITLED AN ACT TO ELIMINATE STATE REGULATION OF EMISSIONS OF AIR TOXICS WHEN THESE EMISSIONS ARE REGULATED UNDER THE FEDERAL CLEAN AIR ACT.

☒ With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on COMMERCE, SMALL BUSINESS, AND ENTREPRENEURSHIP.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

HOUSE BILL 1287
Committee Substitute Favorable 5/4/09

Short Title: Recycle Products Containing Mercury. (Public)

Sponsors:

Referred to:

April 9, 2009

A BILL TO BE ENTITLED

AN ACT TO REQUIRE ALL STATE AGENCIES TO RECYCLE ALL SPENT FLUORESCENT LIGHTS AND MERCURY THERMOSTATS; REQUIRE THE REMOVAL OF ALL FLUORESCENT LIGHTS AND MERCURY THERMOSTATS FROM BUILDINGS PRIOR TO DEMOLITION; AND BAN MERCURY-CONTAINING PRODUCTS FROM UNLINED LANDFILLS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 7. Management of Certain Products That Contain Mercury.

"**§ 130A-310.60. Recycling required by State agencies.**

(a) Each State agency, including the General Assembly, the General Court of Justice, universities, community colleges, and political subdivisions using State funds shall establish a program in cooperation with the Department of Environment and Natural Resources and the Department of Administration for the collection and recycling of all spent fluorescent lights and thermostats that contain mercury generated in State offices. The program shall include procedures for convenient collection, safe storage, and proper recycling of spent fluorescent lights and thermostats that contain mercury and contractual or other arrangements with buyers of the recyclable materials.

(b) Each State agency, including the General Assembly, the General Court of Justice, universities, community colleges, and political subdivisions shall submit a report on or before February 1, 2010, that documents the agency's compliance with the requirements of subsection (a) of this section to the Department of Environment and Natural Resources and the Department of Administration. The Departments shall compile the information submitted and jointly shall submit a report to the Environmental Review Commission on or before May 1, 2010, concerning the activities required by subsection (a) of this section. The information provided shall also be included in the report required by G.S. 130A-309.06(c).

"**§ 130A-310.61. Removal and recycling of mercury-containing products from structures to be demolished.**

Prior to demolition of any building or structure in the State, the contractor responsible for the demolition activity or the owner of the building or structure to be demolished shall remove all fluorescent lights and thermostats that contain mercury from the building or structure to be demolished."

SECTION 2. G.S. 130A-309.10 is amended by adding a new subsection to read:

"(m) No person shall knowingly dispose of fluorescent lights and thermostats that contain mercury in a sanitary landfill for the disposal of construction and demolition debris waste that is unlined or in any other landfill that is unlined."

SECTION 3. This act is effective when it becomes law, except that: (i) the recycling program required by G.S. 130A-310.60, as enacted by Section 1 of this act, shall be established and implemented by each State agency by December 1, 2009; and (ii) Section 2 of this act becomes effective December 1, 2009, and applies to offenses committed on or after that date.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒Committee Substitute # 1 for

HB 1287 A BILL TO BE ENTITLED AN ACT TO REQUIRE ALL STATE AGENCIES TO RECYCLE ALL SPENT FLUORESCENT LIGHTS AND MERCURY THERMOSTATS; REQUIRE THE REMOVAL OF ALL FLUORESCENT LIGHTS AND MERCURY THERMOSTATS FROM BUILDINGS PRIOR TO DEMOLITION; AND BAN MERCURY-CONTAINING PRODUCTS FROM UNLINED LANDFILLS.

☒ With a favorable report as to Committee substitute bill 2, which changes the title, unfavorable as to Committee Substitute Bill 1.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1287
Committee Substitute Favorable 5/4/09
PROPOSED COMMITTEE SUBSTITUTE H1287-CSRI-17 [v.2]

5/7/2009 11:33:06 AM

Short Title: Recycle Products Containing Mercury. (Public)

Sponsors:

Referred to:

April 9, 2009

A BILL TO BE ENTITLED

AN ACT TO REQUIRE ALL PUBLIC AGENCIES TO RECYCLE ALL SPENT FLUORESCENT LIGHTS AND MERCURY THERMOSTATS; REQUIRE THE REMOVAL OF ALL FLUORESCENT LIGHTS AND MERCURY THERMOSTATS FROM BUILDINGS PRIOR TO DEMOLITION; AND BAN MERCURY-CONTAINING PRODUCTS FROM UNLINED LANDFILLS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 7. Management of Certain Products That Contain Mercury.

"**§ 130A-310.60. Recycling required by public agencies.**

(a) Each State agency, including the General Assembly, the General Court of Justice, universities, community colleges, public schools, and political subdivisions using State funds shall establish a program in cooperation with the Department of Environment and Natural Resources and the Department of Administration for the collection and recycling of all spent fluorescent lights and thermostats that contain mercury generated in public buildings. The program shall include procedures for convenient collection, safe storage, and proper recycling of spent fluorescent lights and thermostats that contain mercury and contractual or other arrangements with buyers of the recyclable materials.

(b) Each State agency, including the General Assembly, the General Court of Justice, universities, community colleges, the Department of Public Instruction on behalf of the public schools, and political subdivisions shall submit a report on or before February 1, 2010, that documents the entity's compliance with the requirements of subsection (a) of this section to the Department of Environment and Natural Resources and the Department of Administration. The Departments shall compile the information submitted and jointly shall submit a report to the Environmental Review Commission on or before May 1, 2010, concerning the activities required by subsection (a) of this section. The information provided shall also be included in the report required by G.S. 130A-309.06(c).

"**§ 130A-310.61. Removal and recycling of mercury-containing products from structures to be demolished.**

Prior to demolition of any building or structure in the State, the contractor responsible for the demolition activity or the owner of the building or structure to be demolished shall remove

all fluorescent lights and thermostats that contain mercury from the building or structure to be demolished."

SECTION 2. G.S. 130A-309.10 is amended by adding a new subsection to read:

"(m) No person shall knowingly dispose of fluorescent lights and thermostats that contain mercury in a sanitary landfill for the disposal of construction and demolition debris waste that is unlined or in any other landfill that is unlined."

SECTION 3. This act is effective when it becomes law, except that: (i) the recycling program required by G.S. 130A-310.60, as enacted by Section 1 of this act, shall be established and implemented by each State agency by December 1, 2009; and (ii) Section 2 of this act becomes effective December 1, 2009, and applies to offenses committed on or after that date.

HOUSE BILL 1287:
Recycle Products Containing Mercury

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	May 7, 2009
Introduced by:	Reps. Harrison, Burris-Floyd	**Prepared by:**	Jennifer McGinnis
Analysis of:	PCS to Second Edition H1287-CSRI-17 [v.2]		Committee Counsel

SUMMARY: ***The Proposed Committee Substitute (PCS) for House Bill 1287 would: (i) require all public agencies to implement a program for the collection and recycling of all spent fluorescent lights and thermostats that contain mercury generated in State offices; (ii) require removal of all fluorescent lights and thermostats that contain mercury from buildings prior to demolition; and (iii) prohibit the disposal of fluorescent lights and thermostats that contain mercury in unlined landfills.***

CURRENT LAW:

With regard to other recycling requirements applicable to State agencies, G.S.130A-309.14 requires all agencies to have a program to collect recyclable materials, specifically including aluminum, newspaper, sorted office paper, recyclable glass, and plastic bottles.

With regard to other items banned from disposal in landfills, other items include: used oil; yard trash; white goods; antifreeze; aluminum cans; whole scrap tires; lead-acid batteries; beverage containers that are required to be recycled by ABC permittees; motor vehicle oil filters (effective October 1, 2009); wooden pallets, except that wooden pallets may be disposed of in a landfill that is permitted to only accept construction and demolition debris (effective October 1, 2009); oyster shells; discarded computer equipment (effective January 1, 2011); and discarded televisions (effective January 1, 2011).[1]

BACKGROUND: Mercury is a toxic metal that can harm the brain, heart, kidneys, lungs, and immune system. It is found in certain consumer and industrial products, including fluorescent lights and thermostats. Improper disposal of such products can result in the release of mercury to the environment. Fragile products, such as fluorescent lights, may break during transportation and release mercury into the air. If a mercury-containing product ends up in a landfill, the mercury can leach into the surrounding soil or be released into the atmosphere.

BILL ANALYSIS: The PCS would:

- Require all public agencies (State agencies, including the General Assembly, the General Court of Justice, universities, community colleges, public schools, and political subdivisions) to: (i) implement a program by December 1, 2009 for the collection and recycling of all spent fluorescent lights and thermostats that contain mercury generated in State offices; and (ii) report on their compliance with this requirement to the Department of Environment and Natural Resources (DENR) and the Department of Administration (DOA) on or before February 1, 2010. DENR and DOA would then compile the information submitted from all agencies and jointly submit a report to the Environmental Review Commission on or before May 1, 2010.

[1] These items are banned from disposal in ***all landfills***. The disposal ban proposed under the PCS covering fluorescent lights and thermostats containing mercury would only be applicable to sanitary landfill for the disposal of construction and demolition debris, and other unlined landfills.

- Require a contractor responsible for building demolition or an owner of property to be demolished to remove all fluorescent lights and thermostats that contain mercury from the building prior to demolition.
- Prohibit the disposal of fluorescent lights and thermostats that contain mercury in a sanitary landfill for the disposal of construction and demolition debris, and other unlined landfills. This ban would become effective December 1, 2009. A knowing violation of this provision would subject the violator to the imposition of administrative penalties, and would be punishable as a Class 1 misdemeanor[2,3].

The change made by the PCS to the 2nd Edition of the bill concerns addition of public schools to the entities that must implement a program to recycle products that contain mercury, and report on their compliance activities.

H1287-SMRI-38(CSRI-17) v2

[2] See GS 130A-22 (Administrative Penalties) and GS 130A-25(a) (Misdemeanor)/GS 14-3(a) (Punishment of Misdemeanors...).
[3] The range of punishment for a Class 1 misdemeanor, assuming no prior convictions, is 1-45 days community punishment.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

HOUSE BILL 924

Short Title:	Mecklenburg County/Reimbursement Agreements.	(Local)
Sponsors:	Representatives Carney; and Samuelson.	
Referred to:	Local Government I, if favorable, Environment and Natural Resources.	

April 1, 2009

A BILL TO BE ENTITLED

AN ACT CONCERNING PUBLIC-PRIVATE REIMBURSEMENT AGREEMENTS FOR PARK INFRASTRUCTURE DEVELOPMENT BY MECKLENBURG COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. A county may enter into reimbursement agreements with private property owners for the design and construction of park infrastructure or parks that: (i) are included in the county's Parks Master Plan; (ii) are located on property that is adjacent to or in close proximity to other property owned by the private property owner or its affiliates; and (iii) are located on the property owned by the private property owner that is to be leased or transferred to the county.

SECTION 2. A county may provide for the reimbursements to be paid from any lawful source over any period of time, including making payments that include a premium for delayed reimbursement. A county may also exchange real property owned by the county under the provisions of G.S. 160A-271 as part of the reimbursement, or in full or partial payment for a lease, or in connection with the exchange for the real property owned by the private property owner that is developed or to be developed for park purposes.

SECTION 3. No construction performed by a private property owner as part of a reimbursement agreement authorized by this act shall be deemed to be construction subject to the provisions of Article 8 of Chapter 143 of the General Statutes, and no reimbursement agreement authorized by this act shall be deemed to be subject to the provisions of Article 8 of Chapter 159 of the General Statutes, and neither shall be deemed to be a violation or evasion of any provision of either of these Articles. Notwithstanding the foregoing provisions of this section, a construction contract subject to a reimbursement agreement authorized by this act shall not be awarded by a private property owner who is a party to the reimbursement agreement without complying with the requirements of G.S. 143-129 relating specifically to public advertising and bid opening requirements that would be applicable if the construction contract had been awarded by the county.

SECTION 4. This act applies to Mecklenburg County only.

SECTION 5. This act is effective when it becomes law.

HOUSE BILL 924: Mecklenburg County/Reimbursement Agreements

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	May 7, 2009
Introduced by:	Representative Carney	**Prepared by:**	Jennifer Mundt
Analysis of:	First Edition		Legislative Analyst

SUMMARY: The First Edition of House Bill 924 provides that Mecklenburg County may enter into reimbursement agreements with private property owners for the design and construction of certain park infrastructure or parks.

CURRENT LAW: G.S. 153A-451 allows counties to enter into reimbursement agreements with private developers and property owners for the design and construction of "municipal infrastructure" that is part of the county's Capital Improvement Plan and serves the developer or property owner. "Municipal infrastructure" includes, without limitation, water mains, sanitary sewer lines, lift stations, stormwater lines, streets, curb and gutter, sidewalks, traffic control devices, and other associated facilities. The statute does not specifically mention parks.

BILL ANALYSIS: The bill provides that Mecklenburg County may enter into reimbursement agreements with private property owners for the design and construction of park infrastructure or parks hat have the following three characteristics:

1. They are included in the county's Parks Master Plan.
2. They are on property that is adjacent to or near other property owned by the private property owner or its affiliates.
3. They are on property owned by the private property owner that is to be leased or transferred to the county.

The reimbursement could be paid from any lawful source over any period of time, including making payments that include a premium for delayed reimbursement. The county could exchange real property owned by the county as part of the reimbursement.

The construction is exempted from Article 8 of Chapter 143, which contains the general requirements for public contracts, except that the private property owner, in awarding a construction contact, would be subject to the public advertising and bidding requirements of that law.

The reimbursement agreement would not be subject to Article 8 of Chapter 159, which governs local government financing agreements.

EFFECTIVE DATE: This act is effective when it becomes law.

Bill Gilkeson, counsel to the House Local Government I Committee, substantially contributed to this summary.

H924-SMTA-36(e1) v1

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

HB 924 A BILL TO BE ENTITLED AN ACT CONCERNING PUBLIC-PRIVATE REIMBURSEMENT AGREEMENTS FOR PARK INFRASTRUCTURE DEVELOPMENT BY MECKLENBURG COUNTY.

☒ With a favorable report.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

HOUSE BILL 1378
Committee Substitute Favorable 5/6/09

Short Title: Clean Marinas/Pumpout Stations. (Public)

Sponsors:

Referred to:

April 13, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE OWNER OR OPERATOR OF CERTAIN MARINAS SHALL INSTALL AND MAINTAIN PUMPOUT FACILITIES BY JULY 1, 2010, TO PROHIBIT THE DISCHARGE OF EFFLUENT FROM A VESSEL INTO CERTAIN COASTAL WATERS, TO REQUIRE THE OWNER OR OPERATOR OF ANY MARINA WHO KNOWS THAT A VESSEL DOCKED AT THE MARINA HAS UNLAWFULLY DISCHARGED SEWAGE INTO COASTAL WATERS TO REPORT THE UNLAWFUL DISCHARGE TO THE APPROPRIATE LAW ENFORCEMENT AGENCY, TO REQUIRE VESSEL OWNERS AND OPERATORS TO KEEP A LOG REGARDING THE DATE AND LOCATION OF PUMPOUTS, AND TO PROVIDE THAT A PILOT PROGRAM IN NEW HANOVER COUNTY SHALL BE DESIGNED AND IMPLEMENTED BY THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO BEGIN PHASING IN THE PUMPOUT STATION REQUIREMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 77 of the General Statutes is amended by adding a new Article to read:

"Article 9.
"Clean Coastal Water and Vessel Act.

"**§ 77-125. Definitions.**

The following definitions apply in this Article:

(1) Department. – Department of Environment and Natural Resources.

(2) Marina. – A marina that has docking facilities and has more than 10 wet slips for vessels of 25 feet or more that have marine sanitation devices. The term includes privately and publicly owned marinas and anchorages.

(3) Pumpout facility. – The term includes stations affixed permanently to a dock, mobile stations mounted to a golf cart or hand truck, direct slipside connections, and pumpout vessels.

(4) Vessel. – As defined in G.S. 75A-2.

"**§ 77-126. Marina pumpout facilities and services required in certain areas; marinas and local government may apply for grant funds.**

(a) The owner or operator, as appropriate, of any marina that is located on coastal waters designated as a no discharge zone by the Environmental Protection Agency or that is located in a county or municipality that has adopted a resolution to petition the Environmental Protection Agency for a no discharge zone designation shall either (i) install and maintain an operational pumpout facility at the marina that is available to customers patronizing the marina,

or (ii) contract with an outside service provider to provide pumpout services on a regular basis to the marina.

(b) The owner or operator, as appropriate, of a marina may apply for any private, State, or federal grant funds that are available for the purpose of assisting with the cost of installing a pumpout facility. A county or municipality may also apply for any private, State, or federal grant funds that are available for the purpose of assisting with the cost of installing a pumpout facility.

"**§ 77-127. Department of Environment and Natural Resources establish pumpout facility criteria; inspection of pumpout facilities and vessels docked or moored at a marina.**

The Department of Environment and Natural Resources shall establish appropriate criteria for marina pumpout facilities and pumpout services. The criteria shall include requirements that the facility or services be available to the public, the pumpout facility be open during normal hours, and the pumpout facility be used for its intended purpose. The criteria shall also include a requirement that the marina maintain records regarding the pumpout facility or services. The Department shall also develop guidelines for inspections of marina pumpout facilities and of vessels that are docked or moored at a marina.

"**§ 77-128. Vessel owner and operator required to keep log of pumpout dates.**

(a) Any owner or operator of a vessel that has a marine sanitation device shall maintain a record of the date of each pumpout of the marine sanitation device and the location of the pumpout facility. Each record shall be maintained for a period of one year from the date of the pumpout.

(b) A violation of this section is punishable as a Class 3 misdemeanor. No civil penalty shall be assessed under G.S. 77-130 for a violation of this section.

"**§ 77-129. No discharge of treated or untreated sewage in coastal waters; duty of marina owner or operator to report unlawful discharge.**

(a) The owner or operator of a vessel shall not discharge treated or untreated sewage, including effluent produced or held by any type of marine sanitation device into coastal waters. The owner or operator of a vessel shall keep the overboard waste discharge valves locked at all times, except when lawfully discharging sewage, including effluent produced or held by a marine sanitation device at a pumpout facility.

(b) A violation of this section is punishable as a Class 1 misdemeanor and may also be assessed a civil penalty pursuant to G.S. 77-130.

(c) If the owner or operator of a marina knows that the owner or operator of any vessel docked or moored at the marina knowingly and unlawfully discharged sewage, including effluent produced or held by a marine sanitation device, in coastal waters in violation of this section, then the marina owner or operator shall report the unlawful discharge to the appropriate law enforcement agency. A marina owner or operator who fails to report an unlawful discharge pursuant to this subsection may be assessed a civil penalty pursuant to G.S. 77-130.

"**§ 77-130. Enforcement.**

(a) The following officers have authority to enforce this Article and to inspect a marina or vessel subject to this Article:

(1) Wildlife protectors.

(2) Marine fisheries inspectors.

(3) Any sworn local law enforcement officer with jurisdiction to enforce the laws in the county or municipality in which the marina or vessel is located.

(b) Unless provided otherwise by this Article, a civil penalty of not more than ten thousand dollars ($10,000) may be assessed by the Secretary of Environment and Natural Resources against the owner or operator, as appropriate, of any marina that violates this Article. If any action or failure for which a penalty may be assessed under this section is continuous, the

Secretary of Environment and Natural Resources may assess a penalty not to exceed ten thousand dollars ($10,000) per day for so long as the violation continues.

(c) Unless provided otherwise by this Article, a civil penalty of not more than ten thousand dollars ($10,000) may be assessed by the Secretary of Environment and Natural Resources against any owner or operator, as appropriate, of a vessel that violates this Article. If any action or failure for which a penalty may be assessed under this section is continuous, the Secretary of Environment and Natural Resources may assess a penalty not to exceed ten thousand dollars ($10,000) per day for so long as the violation continues.

"**§ 77-131. Application of Article.**

The provisions of this Article apply only to the following:

(1) A marina that is located on coastal waters designated by the Environmental Protection Agency as a no discharge zone or that is located in a county or municipality that has adopted a resolution to petition the Environmental Protection Agency for a no discharge zone designation.

(2) A vessel in coastal waters that are either designated as a no discharge zone or are included in a petition to the Environmental Protection Agency to be designated as a no discharge zone unless the petition has been denied by the Environmental Protection Agency.

"**§ 77-132. Rule-making authority.**

The Department of Environment and Natural Resources shall adopt rules to implement this Article."

SECTION 2. G.S. 113A-253(c) is amended by adding a new subdivision to read:

"(8b) To purchase or install a pumpout facility as defined in G.S. 77-125 for the purpose of protecting the State's water quality by decreasing effluent discharges into the State's waters as defined in G.S. 143-212."

SECTION 3. The Department of Environment and Natural Resources shall design and implement a pilot program in New Hanover County to begin phasing in the requirements of Section 1 of this act. The Department shall report to the Environmental Review Commission by October 1, 2009, regarding the design of the pilot program and shall implement the pilot program no later than January 1, 2010. The Department of Environment and Natural Resources shall report to the Environmental Review Commission by March 1, 2010, regarding the implementation of the pilot project.

SECTION 4. Section 1 of this act becomes effective July 1, 2010. The remainder of this act becomes effective July 1, 2009.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1378
Committee Substitute Favorable 5/6/09
PROPOSED COMMITTEE SUBSTITUTE H1378-CSRI-18 [v.2]

5/8/2009 3:50:17 PM

Short Title: Clean Marinas/Pumpout Stations. (Public)

Sponsors:

Referred to:

April 13, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE OWNER OR OPERATOR OF CERTAIN MARINAS SHALL INSTALL AND MAINTAIN PUMPOUT FACILITIES BY JULY 1, 2010, TO PROHIBIT THE DISCHARGE OF EFFLUENT FROM A VESSEL INTO CERTAIN COASTAL WATERS, TO REQUIRE THE OWNER OR OPERATOR OF ANY MARINA WHO KNOWS THAT A VESSEL DOCKED AT THE MARINA HAS UNLAWFULLY DISCHARGED SEWAGE INTO COASTAL WATERS TO REPORT THE UNLAWFUL DISCHARGE TO THE APPROPRIATE LAW ENFORCEMENT AGENCY, TO REQUIRE VESSEL OWNERS AND OPERATORS TO KEEP A LOG REGARDING THE DATE AND LOCATION OF PUMPOUTS, AND TO PROVIDE THAT A PILOT PROGRAM IN NEW HANOVER COUNTY SHALL BE DESIGNED AND IMPLEMENTED BY THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO BEGIN PHASING IN THE PUMPOUT STATION REQUIREMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 77 of the General Statutes is amended by adding a new Article to read:

"Article 9.
"Clean Coastal Water and Vessel Act.

"**§ 77-125. Definitions.**

The following definitions apply in this Article:

(1) Department. – Department of Environment and Natural Resources.

(2) Large Vessel Marina. – A marina that has docking facilities and has more than 10 wet slips for vessels of 25 feet or more that have marine sanitation devices. The term includes privately and publicly owned marinas and anchorages.

(3) Pumpout facility. – The term includes stations affixed permanently to a dock, mobile stations mounted to a golf cart or hand truck, direct slipside connections, and pumpout vessels.

(4) Vessel. – As defined in G.S. 75A-2.

"**§ 77-126. Marina pumpout facilities and services required in certain areas; marinas and local government may apply for grant funds.**

(a) The owner or operator, as appropriate, of any large vessel marina that is located on coastal waters designated as a no discharge zone by the Environmental Protection Agency or that is located in a county or municipality that has adopted a resolution to petition the Environmental Protection Agency for a no discharge zone designation shall either (i) install and maintain an operational pumpout facility at the marina that is available to customers patronizing the marina, or (ii) contract with an outside service provider to provide pumpout services on a regular basis to the marina.

(b) The owner or operator, as appropriate, of a large vessel marina may apply for any private, State, or federal grant funds that are available for the purpose of assisting with the cost of installing a pumpout facility. A county or municipality may also apply for any private, State, or federal grant funds that are available for the purpose of assisting with the cost of installing a pumpout facility.

"**§ 77-127. Department of Environment and Natural Resources establish pumpout facility criteria; inspection of pumpout facilities and vessels docked or moored at a marina.**

The Department of Environment and Natural Resources shall establish appropriate criteria for large vessel marina pumpout facilities and pumpout services. The criteria shall include requirements that the facility or services be available to the public, the pumpout facility be open during normal hours, and the pumpout facility be used for its intended purpose. The criteria shall also include a requirement that the marina maintain records regarding the pumpout facility or services. The Department shall also develop guidelines for inspections of marina pumpout facilities and of vessels that are docked or moored at a marina.

"**§ 77-128. Vessel owner and operator required to keep log of pumpout dates.**

(a) Any owner or operator of a vessel that has a marine sanitation device shall maintain a record of the date of each pumpout of the marine sanitation device and the location of the pumpout facility. Each record shall be maintained for a period of one year from the date of the pumpout.

(b) A violation of this section is punishable as a Class 3 misdemeanor. No civil penalty shall be assessed under G.S. 77-130 for a violation of this section.

"**§ 77-129. No discharge of treated or untreated sewage in coastal waters; duty of marina owner or operator to report unlawful discharge.**

(a) No person shall discharge treated or untreated sewage, including effluent produced or held by any type of marine sanitation device into coastal waters. The owner or operator of a vessel shall keep the overboard waste discharge valves locked at all times, except when lawfully discharging sewage, including effluent produced or held by a marine sanitation device at a pumpout facility.

(b) A violation of this section is punishable as a Class 1 misdemeanor and may also be assessed a civil penalty pursuant to G.S. 77-130.

(c) If the owner or operator of a large vessel marina knows that the owner or operator of any vessel docked or moored at the marina knowingly and unlawfully discharged sewage, including effluent produced or held by a marine sanitation device, in coastal waters in violation of this section, then the marina owner or operator shall report the unlawful discharge to the appropriate law enforcement agency. A marina owner or operator who fails to report an unlawful discharge pursuant to this subsection may be assessed a civil penalty pursuant to G.S. 77-130.

"**§ 77-130. Enforcement.**

(a) The following officers have authority to enforce this Article and to inspect a large vessel marina or vessel subject to this Article:

(1) Wildlife protectors.

(2) Marine fisheries inspectors.

(3) Any sworn local law enforcement officer with jurisdiction to enforce the laws in the county or municipality in which the marina or vessel is located.

(4) United States Coast Guard personnel.

(b) Officers enforcing the provisions of this Article shall report violations to the Department.

(c) Unless provided otherwise by this Article, a civil penalty of not more than ten thousand dollars ($10,000) may be assessed by the Secretary of Environment and Natural Resources against any person that violates this Article. If any action or failure for which a penalty may be assessed under this section is continuous, the Secretary of Environment and Natural Resources may assess a penalty not to exceed ten thousand dollars ($10,000) per day for so long as the violation continues.

"**§ 77-131. Application of Article.**

The provisions of this Article apply only to the following:

(1) A large vessel marina that is located on coastal waters designated by the Environmental Protection Agency as a no discharge zone or that is located in a county or municipality that has adopted a resolution to petition the Environmental Protection Agency for a no discharge zone designation.

(2) A vessel in coastal waters that are either designated as a no discharge zone or are included in a petition to the Environmental Protection Agency to be designated as a no discharge zone unless the petition has been denied by the Environmental Protection Agency.

"**§ 77-132. Rule-making authority.**

The Department shall adopt rules to implement this Article."

SECTION 2. The Division of Coastal Management of the Department of Environment and Natural Resources shall design and implement a pilot program in New Hanover County to begin phasing in the requirements of Section 1 of this act. The Department shall report to the Environmental Review Commission by December 1, 2009, regarding the design of the pilot program and shall implement the pilot program no later than January 1, 2010. The Department of Environment and Natural Resources shall report to the Environmental Review Commission by March 1, 2010, regarding the implementation of the pilot project.

SECTION 3. Section 1 of this act becomes effective July 1, 2010. The remainder of this act becomes effective July 1, 2009.

HOUSE BILL 1378:
Clean Marinas/Pumpout Stations

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	May 11, 2009
Introduced by:	Rep. McComas	**Prepared by:**	Jennifer McGinnis
Analysis of:	PCS to Second Edition H1378-CSRI-18		Committee Counsel

SUMMARY: ***The Proposed Committee Substitute (PCS) for House Bill 1378 would: (i) require that owners or operators of certain marinas install and maintain pumpout facilities by July 1, 2010, (ii) prohibit the discharge of effluent from a vessel into certain coastal waters, (iii) require an owner or operator of any marina who knows that a vessel docked at the marina has unlawfully discharged sewage into coastal waters to report the unlawful discharges to the appropriate law enforcement agency; (iv) require vessel owners and operators to keep a log regarding the date and location of pumpouts; and (v) require the Division of Coastal Management (DCM) of the Department of Environment and Natural Resources (DENR) to design and implement a pilot program in New Hanover county to begin phasing in the proposed pumpout facility requirements.***

CURRENT LAW[1]: A U.S.-flagged vessel with an installed toilet on board must have and use a government-approved Marine Sanitation Device (MSD) for sewage. Depending on its design, a MSD either stores sewage on board or treats it for discharge into the water. This requirement does not apply to U.S. vessel operating more than three miles from the coast. However, in federal waters within three miles of the shoreline, a vessel can discharge only treated sewage that has been processed through a MSD. There are three types of MSDs (see attachment for further information).

Although the general rule is that sewage processed through an approved MSD on a vessel may be disposed into U.S. waters, Section 312(f) of the federal Clean Water Act provides an option to states by which they can prohibit discharge of MSD-treated sewage from a vessel into waters of a designated area, called "no discharge zones." A no discharge zone (NDZ) is an area of a waterbody or an entire waterbody into which the discharge of sewage (whether treated or untreated) from all vessels is completely prohibited. There are currently four NDZ's in EPA's mid-Atlantic Region, two in Maryland and two in Virginia. These zones are designed to give states an additional tool to address water quality issues associated with sewage contamination.[2] A state may designate a NDZ if it determines that the protection and enhancement of the quality of the waters require greater environmental protection than current federal standards allow. Before the designation can occur, the United States Environmental Protection Agency (USEPA) must find that there are adequate facilities available to pump out sewage held on vessels. A state may also ask the EPA to ban any discharge of sewage (treated or untreated) from a vessel into specified waters that have environmental importance in order to protect human health, sensitive habitats, aquatic organisms, birds, and other animals using the water from adverse impacts of vessel sewage. A third basis for the designation of a NDZ is that the specified waters serve as drinking water intakes.

BILL ANALYSIS: The PCS would, effective July 1, 2010:

Require owners or operators of marinas located on coastal waters designated as NDZs by USEPA, or located in jurisdictions that have adopted a resolution to petition USEPA for a NDZ, to:

[1] Information from the Passenger Vessel Association, see http://passengervessel.com/documents/leg_sewage.aspx
[2] http://www.epa.gov/reg3wapd/nodischarge/index.htm

- Install or maintain an operational pumpout facility at the marina; or
- Contract with an outside service provider to provide pumpout services at the marina on a regular basis.

- Require DENR to establish appropriate criteria for pumpout facilities and services.
- Require owners of vessels with MSDs to maintain records of pumpouts - violation of the provision would be a Class 3 misdemeanor[3].
- Prohibit anyone from discharging treated or untreated sewage into coastal waters – violation of the provision would be a Class 1 misdemeanor.[4] Marina owners or operators who know of unlawful discharges would be required to report them to law enforcement or be subject to civil penalties (see next bullet).
- Provide for assessment of civil penalties of not more than $10,000 against owners or operators and vessel owners for violations as applicable, and provide that if the violations are continuing, that amount may be assessed per day.
- Authorize wildlife inspectors, marine fisheries inspectors, sworn law enforcement officers with jurisdiction, and U.S. Coast Guard personnel to enforce the provisions contained in the PCS.

The PCS would also require DCM to implement a pilot program in New Hanover County to begin phasing in the provisions above.

H1378-SMRI-40(CSRI-18) v2

[3] The presumptive range of punishment for a Class 3 misdemeanor when there are no prior convictions is 1 – 10 days of community punishment
[4] The presumptive range of punishment for a Class 1 misdemeanor when there are no prior convictions is 1 – 45 days of community punishment

Types of Marine Sanitation Devices

Sewage Treatment Device	Vessel Length	Standard
Type I Flow-through device (maceration and disinfection)	equal to or less than 65 feet in length	The effluent produced must not have a fecal coliform bacteria count greater than 1000 per 100 milliliters and have no visible floating solids.
Type II Flow-through device (maceration and disinfection)	greater than 65 feet in length	The effluent produced must not have a fecal coliform bacteria count greater than 200 per 100 milliliters and suspended solids not greater than 150 milligrams per liter.
Type III Holding tank	any length	This MSD is designed to prevent the overboard discharge of treated or untreated sewage.

A Type I MSD relies on maceration (softening by soaking) and disinfection for treatment of the waste prior to its discharge into the water. A Type II MSD is similar but provides an advanced form of the same type of treatment and discharges wastes with lower fecal coliform counts and reduced suspended solids. A Type III MSD is commonly called a holding tank because the sewage flushed from the marine head is deposited into a tank containing deodorizers and other chemicals. The contents of the holding tank are stored until it can be properly disposed of at a shore-side pumpout facility. A Type III MSD can be equipped with a discharge option, usually called a Y-valve, which allows the vessel to direct the sewage from the head either into the holding tank or directly overboard. Discharging the contents directly overboard is legal only at least three miles from shore.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒Committee Substitute # 1 for

HB 1378 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT THE OWNER OR OPERATOR OF CERTAIN MARINAS SHALL INSTALL AND MAINTAIN PUMPOUT FACILITIES BY JULY 1, 2010, TO PROHIBIT THE DISCHARGE OF EFFLUENT FROM A VESSEL INTO CERTAIN COASTAL WATERS, TO REQUIRE THE OWNER OR OPERATOR OF ANY MARINA WHO KNOWS THAT A VESSEL DOCKED AT THE MARINA HAS UNLAWFULLY DISCHARGED SEWAGE INTO COASTAL WATERS TO REPORT THE UNLAWFUL DISCHARGE TO THE APPROPRIATE LAW ENFORCEMENT AGENCY, TO REQUIRE VESSEL OWNERS AND OPERATORS TO KEEP A LOG REGARDING THE DATE AND LOCATION OF PUMPOUTS, AND TO PROVIDE THAT A PILOT PROGRAM IN NEW HANOVER COUNTY SHALL BE DESIGNED AND IMPLEMENTED BY THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO BEGIN PHASING IN THE PUMPOUT STATION REQUIREMENTS.

☒ With a favorable report as to Committee Substitute Bill 2, unfavorable as to Committee Substitute Bill 1.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

HOUSE BILL 1388

Short Title:	Brownfields Property Notifications.	(Public)
Sponsors:	Representatives Fisher; Goforth, Harrison, Rapp, and Wray.	
Referred to:	Environment and Natural Resources, if favorable, Commerce, Small Business, and Entrepreneurship.	

April 13, 2009

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE PUBLIC NOTICE REQUIREMENT REGARDING A PROSPECTIVE DEVELOPER'S INTENT TO REDEVELOP A BROWNFIELDS PROPERTY AND TO REMOVE THE CONDITION UNDER WHICH THE REGISTER OF DEEDS IS NOT REQUIRED TO RECORD THE CANCELLATION OF THE NOTICE OF BROWNFIELDS PROPERTY AFTER THE HAZARDS HAVE BEEN ELIMINATED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-310.34(a) reads as rewritten:

"(a) A prospective developer who desires to enter into a brownfields agreement shall notify the public and the community in which the brownfields property is located of planned remediation and redevelopment activities. The prospective developer shall submit a Notice of Intent to Redevelop a Brownfields Property and a summary of the Notice of Intent to the Department. The Notice of Intent shall provide, to the extent known, a legal description of the location of the brownfields property, a map showing the location of the brownfields property, a description of the contaminants involved and their concentrations in the media of the brownfields property, a description of the intended future use of the brownfields property, any proposed investigation and remediation, and a proposed Notice of Brownfields Property prepared in accordance with G.S. 130A-310.35. Both the Notice of Intent and the summary of the Notice of Intent shall state the time period and means for submitting written comment and for requesting a public meeting on the proposed brownfields agreement. The summary of the Notice of Intent shall include a statement as to the public availability of the full Notice of Intent. After approval of the Notice of Intent and summary of the Notice of Intent by the Department, the prospective developer shall provide a copy of the Notice of Intent to all local governments having jurisdiction over the brownfields property. The prospective developer shall publish the summary of the Notice of Intent in a newspaper of general circulation serving the area in which the brownfields property is located and shall file a copy of the summary of the Notice of Intent with the Codifier of Rules, who shall publish the summary of the Notice of Intent in the North Carolina Register. The prospective developer shall ~~also~~ conspicuously post a copy of the summary of the Notice of Intent at the brownfields site. At the same time the prospective developer publishes the summary of the Notice of Intent in a newspaper, the developer shall notify every person who resides or owns property located within one-fourth mile of any property boundary of the brownfields property by mailing the summary of the Notice of Intent to residents and by mailing by certified mail the summary of the Notice of Intent to property owners."

SECTION 2. G.S. 130A-310.34(c) reads as rewritten:

"(c) Any person who desires a public meeting on a proposed brownfields agreement shall submit a written request for a public meeting to the Department within 21 days after the public comment period begins. The Department shall consider all requests for a public meeting and shall hold a public meeting if the Department determines that there is significant public interest in the proposed brownfields agreement. If the Department decides to hold a public meeting, the Department shall, at least 15 days prior to the public meeting, mail written notice of the public meeting to all persons who reside or own property located within one-fourth mile of any property boundary of the brownfields property, to persons who requested the public ~~meeting and~~meeting, and to any other person who had previously requested notice. The Department shall also direct the prospective developer to publish, at least 15 days prior to the date of the public meeting, a notice of the public meeting at least one time in a newspaper having general circulation in such county where the brownfields property is located. In any county in which there is more than one newspaper having general circulation, the Department shall direct the prospective developer to publish a copy of the notice in as many newspapers having general circulation in the county as the Department in its discretion determines to be necessary to assure that the notice is generally available throughout the county. The Department shall prescribe the form and content of the notice to be published. The Department shall prescribe the procedures to be followed in the public meeting. The Department shall take detailed minutes of the meeting. The minutes shall include any written comments, exhibits, or documents presented at the meeting."

SECTION 3. G.S. 130A-310.35(e) reads as rewritten:

"(e) A Notice of Brownfields Property filed pursuant to this section may, at the request of the owner of the land, be cancelled by the Secretary after the hazards have been eliminated. If requested in writing by the owner of the land and if the Secretary concurs with the request, the Secretary shall send to the register of deeds of each county where the notice is recorded a statement that the hazards have been eliminated and request that the notice be cancelled of record. The Secretary's statement shall contain the names of the owners of the land as shown in the notice and reference the plat book and page where the notice is recorded. The register of deeds shall record the Secretary's statement in the deed books and index it on the grantor index in the names of the owners of the land as shown in the Notice of Brownfields Property and on the grantee index in the name "Secretary of Environment and Natural Resources". The register of deeds shall make a marginal entry on the Notice of Brownfields Property showing the date of cancellation and the book and page where the Secretary's statement is recorded, and the register of deeds shall sign the entry. If a marginal entry is impracticable because of the method used to record maps and plats, the register of deeds shall ~~not be required to make a marginal entry.~~record the cancellation in some other manner that adequately provides notice of the cancellation and that shows the date of cancellation and the book and page where the Secretary's statement is recorded."

SECTION 4. This act becomes effective October 1, 2009, and applies to property that is subject to a brownfields agreement that is entered into on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1388
PROPOSED COMMITTEE SUBSTITUTE H1388-CSTA-16 [v.2]

5/9/2009 4:22:21 PM

Short Title: Brownfields Property Notifications. (Public)

Sponsors:

Referred to:

April 13, 2009

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE PUBLIC NOTICE REQUIREMENT REGARDING A PROSPECTIVE DEVELOPER'S INTENT TO REDEVELOP A BROWNFIELDS PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-310.34 reads as rewritten:

"**§ 130A-310.34. Public notice and community involvement.**

(a) A prospective developer who desires to enter into a brownfields agreement shall notify the public and the community in which the brownfields property is located of planned remediation and redevelopment activities. The prospective developer shall submit a Notice of Intent to Redevelop a Brownfields Property and a summary of the Notice of Intent to the Department. The Notice of Intent shall provide, to the extent known, a legal description of the location of the brownfields property, a map showing the location of the brownfields property, a description of the contaminants involved and their concentrations in the media of the brownfields property, a description of the intended future use of the brownfields property, any proposed investigation and remediation, and a proposed Notice of Brownfields Property prepared in accordance with G.S. 130A-310.35. Both the Notice of Intent and the summary of the Notice of Intent shall state the time period and means for submitting written comment and for requesting a public meeting on the proposed brownfields agreement. The summary of the Notice of Intent shall include a statement as to the public availability of the full Notice of Intent. After approval of the Notice of Intent and summary of the Notice of Intent by the Department, the prospective developer shall provide a copy of the Notice of Intent to all local governments having jurisdiction over the brownfields property. The prospective developer shall publish the summary of the Notice of Intent in a newspaper of general circulation serving the area in which the brownfields property is ~~located and shall file a copy of the summary of the Notice of Intent with the Codifier of Rules, who shall publish the summary of the Notice of Intent in the North Carolina Register.~~located. The prospective developer shall ~~also~~conspicuously post a copy of the summary of the Notice of Intent at the brownfields~~site.~~ property, and the prospective developer shall mail or deliver a copy of the summary to each owner of property contiguous to the brownfields property. The prospective developer shall submit documentation of the public notices to the Department prior to the Department entering into a brownfields agreement.

(b) Publication of the approved summary of the Notice of Intent ~~in the North Carolina Register and publication~~ in a newspaper of general ~~circulation~~ circulation, posting the summary

at the brownfields property, and mailing or delivering the summary to each owner of property contiguous to the brownfields property shall begin a public comment period of at least 30 days from the ~~later~~ latest date of ~~publication.~~publication, posting, and mailing or delivering. During the public comment period, members of the public, residents of the community in which the brownfields property is located, and local governments having jurisdiction over the brownfields property may submit comment on the proposed brownfields agreement, including methods and degree of remediation, future land uses, and impact on local employment.

(c) Any person who desires a public meeting on a proposed brownfields agreement shall submit a written request for a public meeting to the Department within 21 days after the public comment period begins. The Department shall consider all requests for a public meeting and shall hold a public meeting if the Department determines that there is significant public interest in the proposed brownfields agreement. If the Department decides to hold a public meeting, the Department shall, at least 15 days prior to the public meeting, mail written notice of the public meeting to all persons who requested the public meeting and to ~~any other person who had previously requested notice.~~each owner of property contiguous to the brownfields property. The Department shall also direct the prospective developer to publish, at least 15 days prior to the date of the public meeting, a notice of the public meeting at least one time in a newspaper having general circulation in such county where the brownfields property is located. In any county in which there is more than one newspaper having general circulation, the Department shall direct the prospective developer to publish a copy of the notice in as many newspapers having general circulation in the county as the Department in its discretion determines to be necessary to assure that the notice is generally available throughout the county. The Department shall prescribe the form and content of the notice to be published. The Department shall prescribe the procedures to be followed in the public meeting. The Department shall take detailed minutes of the meeting. The minutes shall include any written comments, exhibits, or documents presented at the meeting.

(d) Prior to entering into a brownfields agreement, the Department shall take into account the comment received during the comment period and at the public meeting if the Department holds a public meeting. The Department shall incorporate into the brownfields agreement provisions that reflect comment received during the comment period and at the public meeting to the extent practical. The Department shall give particular consideration to written comment that is supported by valid scientific and technical information and analysis and to written comment from the units of local government that have taxing jurisdiction over the brownfields property."

SECTION 2. This act becomes effective October 1, 2009, and applies to Notices of Intent to Redevelop a Brownfields Property and summaries of Notices of Intent submitted on after that date.

HOUSE BILL 1388:
Brownfields Property Notifications

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Commerce, Small Business, and Entrepreneurship	**Date:**	May 11, 2009
Introduced by:	Representative Fisher	**Prepared by:**	Jennifer Mundt Legislative Analyst
Analysis of:	PCS to First Edition H1388-CSTA-16 [v.2]		

SUMMARY: ***The Proposed Committee Substitute (PCS) for House Bill 1388 would expand the public notice requirement regarding a prospective developer's intent to redevelop a brownfields property.***

BACKGROUND: A "brownfields site" is an abandoned, idled, or underused property where the threat of environmental contamination has hindered its redevelopment. The North Carolina Brownfields Program is administered by the Division of Waste Management in the Department of Environment and Natural Resources (DENR). The Brownfields Property Reuse Act of 1997 (S.L. 1997-357) directs DENR to work with prospective developers to put brownfields sites back into reuse. The prospective developer is any person who desires to buy or sell a brownfields property for the purpose of redeveloping it and who did not cause or contribute to the contamination at the property.

DENR enters into an agreement with the developer that is in effect a covenant not-to-sue, contingent on the developer making the site suitable for the reuse proposed. The brownfields agreement provides both the site-specific actions necessary to make the site suitable for reuse and the covenant not-to-sue once these actions are complete. A brownfields agreement is designed to break environmental liability barriers that hinder a developer's ability to obtain project financing. The agreement specifies actions to be conducted by the developer that are based on making the site suitable for the use intended.

CURRENT LAW: G.S. 130A-310.34 provides that a prospective brownfields property developer must submit a Notice of Intent to Redevelop a Brownfields Property (NOI) and a summary of the NOI to the Department of Environment and Natural Resources (DENR). After DENR approves the NOI and the summary of the NOI, the prospective developer must do all of the following:

- Provide a copy of the NOI to all local governments having jurisdiction over the brownfields property.
- File a copy of the summary of the NOI with the Codifier of Rules who must publish the summary in the North Carolina Register.
- Publish the summary of the NOI in a newspaper of general circulation serving the area in which the brownfields property is located.
- Conspicuously post a copy of the summary of the NOI at the brownfields property.

minimum 30-day public comment period on the prospective brownfields development begins on the test date of publication of the approved summary of the NOI in a newspaper of general circulation. This section also requires DENR to provide at least 15 days notice of a public meeting on a proposed

brownfields agreement by mail to all persons who requested the public meeting and to any other person who requested notice.

BILL ANALYSIS:

The PCS for House Bill 1388 would change and expand the public notice requirements for prospective brownfields developers as follows:

- Removes the requirement to file a copy of the summary of the NOI with the Codifier of Rules and the requirement that the summary be published in the North Carolina Register.
- Adds a requirement to mail or deliver a copy of the summary of the NOI to each owner of property contiguous to the brownfields property. (The First Edition of House Bill 1388 would have required the prospective developer to mail the summary by certified mail to every person who resides or owns property located within ¼ mile of the brownfields property boundary.)

The PCS would provide that the date on which the 30-day public comment period begins is the latest of the dates that the summary of the NOI is published in a newspaper of general circulation, posted conspicuously at the brownfields location, or mailed or delivered to contiguous property owners.

The PCS would change DENR's notice of a public meeting on a brownfields agreement to include each owner of property contiguous to the brownfields property.

EFFECTIVE DATE: This act becomes effective October 1, 2009 and applies to Notices of Intent to Redevelop a Brownfields Property and summaries of NOIs submitted on or after that date.

H1388-SMTA-41(CSTA-16) v3

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

HB 1388 A BILL TO BE ENTITLED AN ACT TO EXPAND THE PUBLIC NOTICE REQUIREMENT REGARDING A PROSPECTIVE DEVELOPER'S INTENT TO REDEVELOP A BROWNFIELDS PROPERTY AND TO REMOVE THE CONDITION UNDER WHICH THE REGISTER OF DEEDS IS NOT REQUIRED TO RECORD THE CANCELLATION OF THE NOTICE OF BROWNFIELDS PROPERTY AFTER THE HAZARDS HAVE BEEN ELIMINATED.

☒ With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on COMMERCE, SMALL BUSINESS, AND ENTREPRENEURSHIP.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

HOUSE BILL 1175

Short Title:	Update NPDES Permitting for CAFOs.	(Public)
Sponsors:	Representatives Hill; and Lucas.	
Referred to:	Agriculture, if favorable, Environment and Natural Resources.	

April 8, 2009

A BILL TO BE ENTITLED

AN ACT TO UPDATE THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITTING REQUIREMENTS FOR CONFINED ANIMAL FEEDING OPERATIONS (CAFOS).

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.10C reads as rewritten:

"**§ 143-215.10C. Applications and permits.**

(a) No person shall construct or operate an animal waste management system for an animal operation or operate an animal waste management system for a dry litter poultry facility that is ~~subject to regulation under 40 Code of Federal Regulations § 122.23 (1 July 2003)~~required to be permitted under 40 Code of Federal Regulations § 122, as amended at 73 Federal Register 70418 (November 20, 2008), without first obtaining an individual permit or a general permit under this Article. The Commission shall develop a system of individual and general permits for animal operations and dry litter poultry facilities based on species, number of animals, and other relevant factors. It is the intent of the General Assembly that most animal waste management systems be permitted under a general permit. The Commission, in its discretion, may require that an animal waste management system be permitted under an individual permit if the Commission determines that an individual permit is necessary to protect water quality, public health, or the environment. The owner or operator of an animal operation shall submit an application for a permit at least 180 days prior to construction of a new animal waste management system or expansion of an existing animal waste management system and shall obtain the permit prior to commencement of the construction or expansion. The owner or operator of a dry litter poultry facility that is ~~subject to regulation under 40 Code of Federal Regulations § 122.23 (1 July 2003)~~ required to be permitted under 40 Code of Federal Regulations § 122, as amended at 73 Federal Register 70418 (November 20, 2008), shall submit an application for a permit at least 180 days prior to operation of a new animal waste management system.

(a1) An owner or operator of an animal waste management system for an animal operation or a dry litter poultry facility that is ~~subject to regulation under 40 Code of Federal Regulations § 122.23(c)(3) (1 July 2003)~~ required to be permitted under 40 Code of Federal Regulations § 122, as amended at 73 Federal Register 70418 (November 20, 2008), shall apply for an individual National Pollutant Discharge Elimination System (NPDES) permit or a general NPDES permit under this Article ~~within 90 days of notification by the Department that the facility is subject to regulation under 40 Code of Federal Regulations § 122.23(c)(3) (1 July 2003).~~and may not discharge into waters of the State except in compliance with an NPDES permit.

(b) An animal waste management system that is not required to be permitted under 40 Code of Federal Regulations § 122, as amended at 73 Federal Register 70418 (November 20, 2008), shall be designed, constructed, and operated so that the animal operation served by the animal waste management system does not cause pollution in the waters of the State except as may result because of rainfall from a storm event more severe than the 25-year, 24-hour ~~storm or if required by 40 Code of Federal Regulations § 122.23 (1 July 2003) from a storm event more severe than the 100-year, 24-hour storm.~~storm.

(b1) An existing animal waste management system that is required to be permitted under 40 Code of Federal Regulations § 122, as amended at 73 Federal Register 70418 (November 20, 2008), shall be designed, constructed, maintained, and operated in accordance with 40 Code of Federal Regulations § 412, as amended at 73 Federal Register 70418 (November 20, 2008), so that the animal operation served by the animal waste management system does not cause pollution in waters of the State except as may result because of rainfall from a storm event more severe than the 25-year, 24-hour storm. A new animal operation or dry litter poultry facility that is required to be permitted under 40 Code of Federal Regulations § 412.46, as amended at 73 Federal Register 70418 (November 20, 2008), shall be designed, constructed, maintained, and operated so that there is no discharge of pollutants to waters of the State.

(c) The Commission shall act on a permit application as quickly as possible and may conduct any inquiry or investigation it considers necessary before acting on an application.

(d) All applications for permits or for renewal of an existing permit shall be in writing, and the Commission may prescribe the form of the applications. All applications shall include an animal waste management system plan approved by a technical specialist. The Commission may require an applicant to submit additional information the Commission considers necessary to evaluate the application. Permits and renewals issued pursuant to this section shall be effective until the date specified therein or until rescinded unless modified or revoked by the Commission.

(e) An animal waste management plan for an animal operation shall include all of the following components:

(1) A checklist of potential odor sources and a choice of site-specific, cost-effective remedial best management practices to minimize those sources.

(2) A checklist of potential insect sources and a choice of site-specific, cost-effective best management practices to minimize insect problems.

(3) Provisions that set forth acceptable methods of disposing of mortalities.

(4) Provisions regarding best management practices for riparian buffers or equivalent controls, particularly along perennial streams.

(5) Provisions regarding the use of emergency spillways and site-specific emergency management plans that set forth operating procedures to follow during emergencies in order to minimize the risk of environmental damage.

(6) Provisions regarding periodic testing of waste products used as nutrient sources as close to the time of application as practical and at least within 60 days of the date of application and periodic testing, at least annually, of soils at crop sites where the waste products are applied. Nitrogen shall be a rate-determining element. Phosphorus shall be evaluated according to the nutrient management standard approved by the Soil and Water Conservation Commission and the Natural Resources Conservation Service of the United States Department of Agriculture for facilities that are ~~subject to regulation under 40 Code of Federal Regulations § 122.23 (1 July 2003).~~ required to be permitted under 40 Code of Federal Regulations § 122, as amended at 73 Federal Register 70418 (November 20, 2008). If the evaluation demonstrates the need to limit the application of phosphorus in order to comply with the

nutrient management standard, then phosphorus shall be a rate-determining element. Zinc and copper levels in the soils shall be monitored, and alternative crop sites shall be used when these metals approach excess levels.

(7) Provisions regarding waste utilization plans that assure a balance between nitrogen application rates and nitrogen crop requirements, that assure that lime is applied to maintain pH in the optimum range for crop production, and that include corrective action, including revisions to the waste utilization plan based on data of crop yields and crops analysis, that will be taken if this balance is not achieved as determined by testing conducted pursuant to subdivision (6) of this subsection.

(8) Provisions regarding the completion and maintenance of records on forms developed by the Department, which records shall include information addressed in subdivisions (6) and (7) of this subsection, including the dates and rates that waste products are applied to soils at crop sites, and shall be made available upon request by the Department.

(f) Any owner or operator of a dry litter poultry facility that is not ~~subject to regulation under 40 Code of Federal Regulations § 122.23 (1 July 2003)~~ required to be permitted under 40 Code of Federal Regulations § 122, as amended at 73 Federal Register 70418 (November 20, 2008), but that involves 30,000 or more birds shall develop an animal waste management plan that complies with the testing and record-keeping requirements under subdivisions (6) through (8) of subsection (e) of this section. Any operator of this type of animal waste management system shall retain records required under this section and by the Department on-site for three years.

(f1) An animal waste management plan for a dry litter poultry facility ~~subject to regulation under 40 Code of Federal Regulations § 122.23 (1 July 2003)~~ required to be permitted under 40 Code of Federal Regulations § 122, as amended at 73 Federal Register 70418 (November 20, 2008), shall include the components set out in subdivisions (3), (6), (7), and (8) of subsection (e) of this section, and to the extent required by ~~40 Code of Federal Regulations § 122.23 (1 July 2003)~~ 40 Code of Federal Regulations § 122, as amended at 73 Federal Register 70418 (November 20, 2008), for land application discharges, subdivision (4) of subsection (e) of this section.

(g) The Commission shall encourage the development of alternative and innovative animal waste management technologies. The Commission shall provide sufficient flexibility in the regulatory process to allow for the timely evaluation of alternative and innovative animal waste management technologies and shall encourage operators of animal waste management systems to participate in the evaluation of these technologies. The Commission shall provide sufficient flexibility in the regulatory process to allow for the prompt implementation of alternative and innovative animal waste management technologies that are demonstrated to provide improved protection to public health and the environment.

(h) The owner or operator of an animal waste management system shall:

(1) In the event of a discharge of 1,000 gallons or more of animal waste to the surface waters of the State, issue a press release to all print and electronic news media that provide general coverage in the county where the discharge occurred setting out the details of the discharge. The owner or operator shall issue the press release within 48 hours after the owner or operator has determined that the discharge has reached the surface waters of the State. The owner or operator shall retain a copy of the press release and a list of the news media to which it was distributed for at least one year after the discharge and shall provide a copy of the press release and the list of the news media to which it was distributed to any person upon request.

(2) In the event of a discharge of 15,000 gallons or more of animal waste to the surface waters of the State, publish a notice of the discharge in a newspaper having general circulation in the county in which the discharge occurs and in each county downstream from the point of discharge that is significantly affected by the discharge. The Secretary shall determine, at the Secretary's sole discretion, which counties are significantly affected by the discharge and shall approve the form and content of the notice and the newspapers in which the notice is to be published. The notice shall be captioned "NOTICE OF DISCHARGE OF ANIMAL WASTE". The owner or operator shall publish the notice within 10 days after the Secretary has determined the counties that are significantly affected by the discharge and approved the form and content of the notice and the newspapers in which the notice is to be published. The owner or operator shall file a copy of the notice and proof of publication with the Department within 30 days after the notice is published. Publication of a notice of discharge under this subdivision is in addition to the requirement to issue a press release under subdivision (1) of this subsection.

(i) A person who obtains an individual permit under G.S. 143-215.1 for an animal waste management system that serves a public livestock market shall not be required to obtain a permit under this Part and is not subject to the requirements of this Part."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 1175:
Update NPDES Permitting for CAFOs

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	May 7, 2009
Introduced by:	Representative Hill	**Prepared by:**	Jennifer Mundt
Analysis of:	First Edition		Legislative Analyst

SUMMARY: ***House Bill 1175 updates the National Pollutant Discharge Elimination System (NPDES) permitting requirements for Confined Animal Feeding Operations (CAFO's) by updating citations to the Code of Federal Regulations (CFR). The bill also provides that an owner or operator of an animal operation or dry litter poultry operation that must be permitted under the federal regulations must apply for an individual or general NPDES permit under Article 21 of Chapter 143 of the General Statutes and may not discharge into the waters of the State except in compliance with the NPDES permit. Further, an existing animal waste management system permitted under the federal regulations must be designed, constructed, maintained and operated in accordance with those regulations so that the animal operation served does not pollute the waters of the State except as may result from rainfall from a storm event more severe than the 25-year, 24-hour storm. New animal operations or dry litter poultry facilities required to be permitted must be designed, constructed, maintained, and operated so that there is no discharge of pollutants to the waters of the State.***

CURRENT LAW: G.S. 143-215.10C requires a person to obtain an individual or general permit for the construction or operation of an animal waste management system for an animal operation or a dry litter poultry facility that is required to be permitted under 40 CFR §122.23 (July 1, 2003). The owner or operator of an animal waste management system required to be permitted under 40 CFR §122.23 must apply for an individual or general permit within 90 days of being notified by the Department of Environment and Natural Resources (DENR) that the facility is subject to regulation. Facilities that are not required to be permitted under the federal regulations must be designed, constructed, and operated so that the animal operation served by the waste management system does not cause pollution to the waters of the State except that may result from rainfall from a storm event more severe than the 25-year, 24-hour storm.

The 2003 U.S. Environmental Protection Agency (EPA) rules on permitting for CAFO's were challenged by a number of environmental groups in *Waterkeeper Alliance et. al. vs. U.S. Environmental Protection Agency,* 399 F.2d 486 (2d Cir. 2005). The Second Circuit Court of Appeals issued its decision in the case in 2005, upholding some of the challenged provisions of the rules, but also remanding others back to EPA. In response, EPA revised its rules regarding the NPDES permitting requirements and effluent limitations guidelines and standards for CAFO's. The final rule was issued in November of 2008. (73 Federal Register 70418 (November 20, 2008.))

BILL ANALYSIS: House Bill 1175 updates the National Pollutant Discharge Elimination System (NPDES) permitting requirements for Confined Animal Feeding Operations (CAFO's) by updating citations to reflect changes to the Code of Federal Regulations (CFR) that came about as a result of the court decision in *Waterkeeper Alliance et. al. vs. U.S. Environmental Protection Agency,* 399 F.2d 486 (2d Cir. 2005). The bill also amends G.S. 143-215.10C by deleting the requirement that an animal facility subject to regulation apply for a permit within 90 days of notice by DENR and providing that an owner or operator of an animal operation or dry litter poultry operation that must be permitted under the

federal regulations must apply for an individual or general NPDES permit under Article 21 of Chapter 143 and may not discharge into the waters of the State except in compliance with the NPDES permit. The bill further amends G.S. 143-215.10C by adding a new subsection (b1) providing that an existing animal waste management system permitted under the federal regulations must be designed, constructed, maintained and operated in accordance with those federal regulations so that the animal operation served does not pollute the waters of the State except as may result from rainfall from a storm event more severe than the 25-year, 24-hour storm. New animal operations or dry litter poultry facilities required to be permitted must be designed, constructed, maintained, and operated so that there is no discharge of pollutants to the waters of the State.

EFFECTIVE DATE: The act is effective when it becomes law.

Barbara Riley, counsel to House Agriculture Committee, substantially contributed to this summary.

H1175-SMTA-31(e1) v1

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

HB 1175 A BILL TO BE ENTITLED AN ACT TO UPDATE THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITTING REQUIREMENTS FOR CONFINED ANIMAL FEEDING OPERATIONS (CAFOS).

☒ With a favorable report.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

May 11 , 2009

SPEAKERS: PLEASE SIGN IN BELOW

Name & Title	Representing (Agency/Company)	Bill #	Support/ Oppose
Michael Regan Climate & Air Director EDF	Env. Defense Fund	1335	oppose
FRANK FRANCIOSI PRESIDENT	NC COMPOSTING COUNCIL	1100	SUPPORT
✓ ~~Jim Beeson Professional Soil Scientist~~	~~Soil & Environmental Consultants~~	~~617~~	~~support~~
✓ Marion Deerhake DEH	NC Environmental Mgt Cmsn at request of Rep. Tricia Hunt	1335	oppose
✓ John Williams			
★ Molly Diggins			

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

May 11 , 2009

SPEAKERS: PLEASE SIGN IN BELOW

Name & Title	Representing (Agency/Company)	Bill #	Support/ Oppose
John Williams	Land Management Group	617	Support
Noel Lyons	McGill Environmental	1100	Support?

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — May 11, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
R. Paul Wiles	WGR
Anne Coan	NC Farm Bureau
TOM BEAN	NC EDF, NC SEA,
Cody Thomas	NC Assn of REALTORS
Chris Wells	K&L Gates
Elizabeth Biser	DENR
Dan Crawford	LCNC
Betsy McCorkle	CCNC
Dan Conrad	NCCN
Grady McCallie	NCCN
Drew Ball	Sierra Club

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — May 11, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Joy Hicks	NCDA&CS
Molly Diggins	Sierra Club
Jim Stewart	NC Chamber
Kris Coracini	EDF
Michael Regan	EDF
Keith Overcash	NC DAQ
Lori Cherry	NC DAQ
Lee Daniel	NC DENR Div Air Quality
Elizabeth Watson	Environment NC
Elizabeth Outts	" "
T Reeder	NC DWQ

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — May 11, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
FRANCIS M. NEVILS JR	DENR - DLR
James Simon	DENR - DLR
KENNETH TAYLOR	NCDENR - DLR
DON LEES	NCDOT
Marion Deerhake	NCEMC
LISA RIEGEL	NHTF
AMY SIMES	DENR
Jeff Manning	DWQ
Bruce Nicholson	NCDENR/DWM
Linda Culpepper	NCDENR/DWM
[signature]	MCIM BW.

VISITOR REGISTRATION SHEET

Environment (House) — Name of Committee

5/11/09 — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Robin Smith	DENR
Coleen H. Sullins	DENR/DWQ
Jessi Hayes	NC HBA
Bobbi Gray	John Locke Foundation
Amy Schilder	MWC

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — **Name of Committee**

May 11, 2009 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
ZACH PRITCHETT	CAA
Alicia Dew	MWC
Sarah McGill	McGill Environmental Systems Inc.
Scott Mouw	NC DENR
Betsy Bailey	Professional Engineers of NC
Leslie Arnold	SOG-Daily Bulletin
Jason Hall	Central Carolina Soil Consulting
Jim Beeson	Soil & Environmental Consultants PA
Barrett Kays	Landis
John Williams	Land Management Group
Joe McClees	McClees Consulting

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — May 11, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Goodman	NC Chamber
Michael Thompson	Dominion
Kathy Hawkins	Progress Energy
George Everett	Duke Energy
Scott Garofalo	Duke Energy
Bob Brown	NCFA
Rick Zechini	NC Assn. of Realtors
Ludene Penny	NCCIC
Preston Howard	NCCC

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — May 11, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
ANTHONY ALLEN	NCACC
Patrice Roesler	NCACC
Kim Hibbard	NCLM
Carrie Hurley	Electricities of NC
Andrew Meehan	NCAEC
[signature]	NCPC
Nancy Thompson	Weyerhaeuser
Anne Coan	NC Farm Bureau Fed.
Lucas Pullen	NC Mining Association
David Rankin	K&L GATES
[signature]	NC Chamber

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — May 11, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Gary Harris	NC Professional Caucus/NCPCM
Don Hunt	NCPCM / NCPCMA
Keith Larick	NC DENR / DWQ
Jon Risgaard	NCDENR/DWQ
Ken Pickle	NCDENR/DWQ
Matt Matthews	NCDENR/DWQ
Zack Fuller	MACCONNELL & ASSOCIATES 1903 N. HARRISON AVE, STE. 102 CARY, NC
FRANK FRANCOSI	NC COMPOSTING COUNCIL
LISA SCHELL	CWMTF
Scott Geis	NCDENR/DCM
Ted Lyon	NCDENR

House Pages

ENVIRONMENT & NATURAL RES. 5/11/09

Name of Committee : _____ **Date**: _____

1. Name: _____

   County: _____

   Sponsor: _____

2. Name: _____

   County: _____

   Sponsor: _____

   Name: _____

   County: _____

   Sponsor: _____

4. Name: _____

   County: _____

   Sponsor: _____

5. Name: _____

   County: _____

   Sponsor: _____

Sgt-At-Arms

Name: Reggie Sills

2. Name: David Shearon

3. Name: Young Bae

4. Name: Kenneth Burroughs

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

May 12, 2009

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Tuesday, May 12, 2009, in room 643 of the Legislative Office Building. Representative Lucy T. Allen presided. Members present were: Representatives Gillespie, Harrison, Tarleton, and Underhill, Vice-Chairs; Representatives Blackwood, Floyd, Gibson, Haire, Insko, Killian, Luebke, McComas, McElraft, Samuelson, West, and Womble.

Representative Allen called the meeting to order at 12:00 noon. She began by introducing the visiting pages from Oakridge: Rob Lytle, Colonial Heights, VA; and Mitchell Marlowe, Springfield Gardens, NY. She next presented the Sergeant-at-arms staff: Fred Hines, Carlton Adams, Charles Coker, Frank Prevo, Henry Worth, and David Shearon.

The first item on the agenda was Committee Substitute for HB 1399 – A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT CIVIL PENALTIES MAY BE ASSESSED ON A PER WELL BASIS FOR VIOLATION OF CAPACITY USE AREA LAWS. Representative Braxton was recognized to explain the bill. As a proposed committee substitute was being distributed, Representative Killian moved that the PCS be before the committee. This motion passed without objection. Following Representative Braxton's remarks, Representative Allen opened the floor for questions or comments from committee members. Once all questions were addressed by Representative Braxton with the assistance of Tom Reeder with the North Carolina Division of Water Resources and Jeff Hudson, committee counsel, Representative Haire made a motion for a favorable report for committee substitute 2, unfavorable to committee substitute 1. This motion passed unanimously.

Next on the agenda was HB 569 -- A BILL TO BE ENTITLED AN ACT TO DIRECT THE DIVISION OF WATER QUALITY IN THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO AUTHORIZE THE USE OF THREE-SIDED, OPEN-BOTTOM, OR BOTTOMLESS CULVERTS ON PRIVATE PROPERTY, BASED ON SOUND ENGINEERING PRACTICES, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE. A proposed committee substitute dealing with technical corrections and a handout "DWQ/Bridge Culvert Standards" (copy attached) was distributed to the committee. Representative Gibson made a motion to place the PCS before the committee; this motion passed without objection. As primary sponsor, Representative Gibson was recognized to explain the bill. Following his remarks, Representative Allen invited questions from the committee members. Questions and concerns from committee members necessitated responses from various speakers as well as the bill's sponsor. First to speak was Robin Smith with the Department of Environment and Natural Resources, who addressed questions about the role of the Department of Transportation. Next to speak was Matt Matthews with the Division of Water Quality. He showed the members some slides to help explain why the Division of Water Quality Water Protection Section is opposed to the bill. A number of concerns such as the effects on Jordan Lake, upstream flooding, and need to change the current policy were addressed by Representative Gibson with the assistance of Katheryn Sawyer Westcott with American Council of Engineering Companies of North Carolina, who spoke about the need for this legislation and the policies in other states as compared to those in North Carolina. Representative Luebke urged committee members to reject the bill based on his belief that current policies are adequate. Tom

Bean with the North Carolina Wildlife Federation was recognized to speak in opposition to HB 569, expressing a concern about changing from the existing policy and the effects the new bill might have. Representative Blackwood made a motion for a favorable report as to the committee substitute bill; unfavorable to the original bill. After a voice vote, a division was called for. The resulting vote was 10 in favor, 6 opposed. The motion passed.

The next bill on the agenda was HB 709 - A BILL TO BE ENTITLED AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO VARIOUS LAWS RELATED TO THE ENVIRONMENT. Representative Gibson was recognized to explain the bill. There were no questions or comments from the committee. Representative Luebke made a motion for a favorable report for HB 709. This motion passed unanimously.

Next on the agenda was HB 713 - A BILL TO BE ENTITLED AN ACT TO AMEND OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES REPORTING REQUIREMENTS. Representative Gibson, as a primary sponsor, stepped forward to explain the bill. In the absence of questions or comments, Representative Tarleton made a motion for a favorable report for HB 713. This motion passed without objection.

The final bill to come before the committee was Committee Substitute for HB 1236 - A BILL TO BE ENTITLED AN ACT TO PROMOTE VOLUNTARY, YEAR-ROUND WATER CONSERVATION AND WATER USE EFFICIENCY MEASURES BY COMMERCIAL AND INDUSTRIAL WATER USERS. Representative Gibson was recognized to explain the bill. In the absence of questions or comments, Representative Floyd made a motion for a favorable report for the Committee Substitute for HB 1236, which passed without objection.

With no further business to come before the committee, Representative Allen announced that the committee would meet immediately after session. The meeting was adjourned at 12:50 p.m.

Respectfully submitted,

Lucy T. Allen

Representative Lucy T. Allen, Chair

Shara Graham

Shara Graham, Committee Assistant

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE MEETING

May 12, 2009

12:00 NOON

Room 643 LOB

Representative Lucy T. Allen, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

HB 1399	Capacity Use Areas Enforcement	Representative Braxton
HB 569	DWQ/Bridge Culvert Standards	Representative Gibson
HB 709	Environmental Technical Corrections 2009.	Representative Allen Representative Gibson, III
HB 713	Env./Nat. Res. Reports Consolidation 2009.	Representative Allen Representative Gibson, III
HB 1100	Stormwater Control BMP's for Compost/Mulch.	Representative Allen
HB 1236	Promote Water Use Efficiency	Representative Gibson, III

ADJOURNMENT

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 1399
Committee Substitute Reported Without Prejudice 4/29/09

Short Title: Capacity Use Areas Enforcement. (Public)

Sponsors:

Referred to:

April 13, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CIVIL PENALTIES MAY BE ASSESSED ON A PER WELL BASIS FOR VIOLATION OF CAPACITY USE AREA LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.17(b) reads as rewritten:

"(b) Civil Penalties. –

(1) The Secretary may assess a civil penalty of not less than one hundred dollars ($100.00) nor more than two hundred fifty dollars ($250.00) against any person who violates any provisions of, or any order issued pursuant to this Part, or who violates a rule of the Commission implementing this Part. If the violator holds a permit under this Part, the Secretary may assess a civil penalty as provided in this subdivision for each well permitted under this Part for which the violator is the permittee.

(2) If any action or failure to act for which a penalty may be assessed under this Part is willful, the Secretary may assess a penalty not to exceed two hundred fifty dollars ($250.00) per day for each day of violation. If the violator holds a permit under this Part, the Secretary may assess a civil penalty as provided in this subdivision for each well permitted under this Part for which the violator is the permittee.

(3) In determining the amount of the penalty the Secretary shall consider the factors set out in G.S. 143B-282.1(b). The procedures set out in G.S. 143B-282.1 shall apply to civil penalty assessments that are presented to the Commission for final agency decision.

(4) The Secretary shall notify any person assessed a civil penalty of the assessment and the specific reasons therefor by registered or certified mail, or by any means authorized by G.S. 1A-1, Rule 4. Contested case petitions shall be filed within 30 days of receipt of the notice of assessment.

(5) Requests for remission of civil penalties shall be filed with the Secretary. Remission requests shall not be considered unless made within 30 days of receipt of the notice of assessment. Remission requests must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B and a stipulation of the facts on which the assessment was based. Consistent with the limitations in G.S. 143B-282.1(c) and (d), remission requests may be resolved by the Secretary and the violator. If the Secretary and the violator are unable to resolve the request, the Secretary shall deliver remission requests and his recommended action to the

Committee on Civil Penalty Remissions of the Environmental Management Commission appointed pursuant to G.S. 143B-282.1(c).

(6) If any civil penalty has not been paid within 30 days after notice of assessment has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the Superior Court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment, unless the violator contests the assessment as provided in subdivision (4) of this subsection, or requests remission of the assessment in whole or in part as provided in subdivision (5) of this subsection. If any civil penalty has not been paid within 30 days after the final agency decision or court order has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the Superior Court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment.

(7) Repealed by Session Laws 1995 (Regular Session, 1996), c. 743, s. 15.

(8) The clear proceeds of civil penalties assessed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

SECTION 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1399
Committee Substitute Reported Without Prejudice 4/29/09
PROPOSED COMMITTEE SUBSTITUTE H1399-CSSB-35 [v.1]

5/11/2009 11:07:29 AM

Short Title: Capacity Use Areas Enforcement. (Public)

Sponsors:

Referred to:

April 13, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT CIVIL PENALTIES OF UP TO ONE THOUSAND DOLLARS MAY BE ASSESSED FOR VIOLATION OF CAPACITY USE AREA LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.17(b) reads as rewritten:

"(b) Civil Penalties. –

(1) The Secretary may assess a civil penalty of not less than one hundred dollars ($100.00) nor more than ~~two hundred fifty dollars ($250.00)~~one thousand dollars ($1,000.00) against any person who violates any provisions of, or any order issued pursuant to this Part, or who violates a rule of the Commission implementing this Part.

(2) If any action or failure to act for which a penalty may be assessed under this Part is willful, the Secretary may assess a penalty not to exceed ~~two hundred fifty dollars ($250.00)~~one thousand dollars ($1,000.00) per day for each day of violation.

(3) In determining the amount of the penalty the Secretary shall consider the factors set out in G.S. 143B-282.1(b). The procedures set out in G.S. 143B-282.1 shall apply to civil penalty assessments that are presented to the Commission for final agency decision.

(4) The Secretary shall notify any person assessed a civil penalty of the assessment and the specific reasons therefor by registered or certified mail, or by any means authorized by G.S. 1A-1, Rule 4. Contested case petitions shall be filed within 30 days of receipt of the notice of assessment.

(5) Requests for remission of civil penalties shall be filed with the Secretary. Remission requests shall not be considered unless made within 30 days of receipt of the notice of assessment. Remission requests must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B and a stipulation of the facts on which the assessment was based. Consistent with the limitations in G.S. 143B-282.1(c) and (d), remission requests may be resolved by the Secretary and the violator. If the Secretary and the violator are unable to resolve the request, the Secretary shall deliver remission requests and his recommended action to the

Committee on Civil Penalty Remissions of the Environmental Management Commission appointed pursuant to G.S. 143B-282.1(c).

(6) If any civil penalty has not been paid within 30 days after notice of assessment has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the Superior Court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment, unless the violator contests the assessment as provided in subdivision (4) of this subsection, or requests remission of the assessment in whole or in part as provided in subdivision (5) of this subsection. If any civil penalty has not been paid within 30 days after the final agency decision or court order has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the Superior Court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment.

(7) Repealed by Session Laws 1995 (Regular Session, 1996), c. 743, s. 15.

(8) The clear proceeds of civil penalties assessed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 1399:
Capacity Use Areas Enforcement

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	May 11, 2009
Introduced by:	Representative Braxton	**Prepared by:**	Jeff Hudson
Analysis of:	Second Edition		Committee Counsel

SUMMARY: House Bill 1399 would provide that violators of capacity use area laws may be assessed civil penalties on a per permitted well basis.

CURRENT LAW AND BACKGROUND:

Under G.S. 143-215.13, the Environmental Management Commission (EMC) may declare and delineate a capacity use area of the State where it finds that the use of groundwater or surface water or both require coordination and limited regulation for protection of the interests and rights of residents or property owners of the area or of the public interest.

The EMC has declared such an area in the central coastal plain of the State. This Central Coastal Plain Capacity Use Area (CCPCUA) includes the following counties: Beaufort, Carteret, Craven, Duplin, Edgecombe, Greene, Jones, Lenoir, Martin, Onslow, Pamlico, Pitt, Washington, Wayne, and Wilson.

Some aquifers in the CCPCUA are being overused so that they will fail to meet the area's water supply needs in the near future. For the CCPCUA, the EMC has adopted rules that require water users to cut back on the use of the aquifers and increase the use of other water resources. Specifically, the rules require permits for groundwater use of more than 100,000 gallons per day and annual registration and reporting of withdrawals of surface water or groundwater of more than 10,000 gallons per day.

For a violation of capacity use area laws, the Secretary of Environment and Natural Resources may assess a civil penalty of not less than one hundred dollars ($100.00) nor more than two hundred fifty dollars ($250.00). If a violation is willful, the Secretary may assess a penalty not to exceed two hundred fifty dollars ($250.00) per day for each day of violation.

(Background information excerpted from the website of the Division of Water Resources in the Department of Environment and Natural Resources at: http://www.ncwater.org/Permits_and_Registration/Capacity_Use/Central_Coastal_Plain/)

BILL ANALYSIS:

House Bill 1399 would provide that violators of capacity use area laws may be assessed civil penalties on a per permitted well basis.

EFFECTIVE DATE: This act is effective when it becomes law.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒Committee Substitute # 1 for

HB 1399 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT CIVIL PENALTIES MAY BE ASSESSED ON A PER WELL BASIS FOR VIOLATION OF CAPACITY USE AREA LAWS.

☒ With a favorable report as to Committee substitute bill 2, which changes the title, unfavorable as to Committee Substitute Bill 1.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on_____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 1

HOUSE BILL 569

Short Title:	DWQ/Bridge Culvert Standards.	(Public)
Sponsors:	Representatives Gibson; and Lucas.	
Referred to:	Transportation, if favorable, Environment and Natural Resources.	

March 16, 2009

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DIVISION OF WATER QUALITY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO AUTHORIZE USE OF THREE-SIDED, OPEN-BOTTOM, OR BOTTOMLESS CULVERTS ON PRIVATE PROPERTY, BASED ON SOUND ENGINEERING PRACTICE, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-215.74P. Authorization of three-sided culverts.**

The Division of Water Quality of the Department of Environment and Natural Resources shall allow the use of structures known as three-sided, open-bottom, or bottomless culverts throughout the State, based on sound engineering practice, when the structures will be located on private property. The Division shall not limit use of these structures to locations where they must be tied into bedrock. Structures authorized under this section may not be transferred to, or operated or maintained by, the Department of Transportation."

SECTION 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 569
PROPOSED COMMITTEE SUBSTITUTE H569-CSSB-31 [v.1]

5/9/2009 10:38:38 AM

Short Title: DWQ/Bridge Culvert Standards. (Public)

Sponsors:

Referred to:

March 16, 2009

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DIVISION OF WATER QUALITY IN THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO AUTHORIZE THE USE OF THREE-SIDED, OPEN-BOTTOM, OR BOTTOMLESS CULVERTS ON PRIVATE PROPERTY, BASED ON SOUND ENGINEERING PRACTICE, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-215.9C. Use of certain types of culverts allowed.**

The Division of Water Quality in the Department of Environment and Natural Resources shall allow the use of structures known as three-sided, open-bottom, or bottomless culverts, as provided in this section. Use of these culverts shall be based on sound engineering practices. The Division shall allow the use of these culverts throughout the State and may not limit their use to locations where they must be tied into bedrock. These culverts may only be used on private property and may not be transferred to, or operated or maintained by, the Department of Transportation."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 569:
DWQ/Bridge Culvert Standards

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	May 11, 2009
Introduced by:	Representative Gibson	**Prepared by:**	Jeff Hudson
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***House Bill 569 would direct the Division of Water Quality in the Department of Environment and Natural Resources to authorize the use of specified culverts on private property, based on sound engineering practice.***

BILL ANALYSIS: House Bill 569 would:

- Direct the Division of Water Quality (Division) in the Department of Environment and Natural Resources to allow the use of three sided, open-bottom, or bottomless culverts on private property, based on sound engineering practice.
- Provide that the Division may not limit use of these structures to locations where they must be tied into bedrock.
- Provide that culverts authorized under this legislation may not be transferred to, or operated or maintained by, the Department of Transportation.

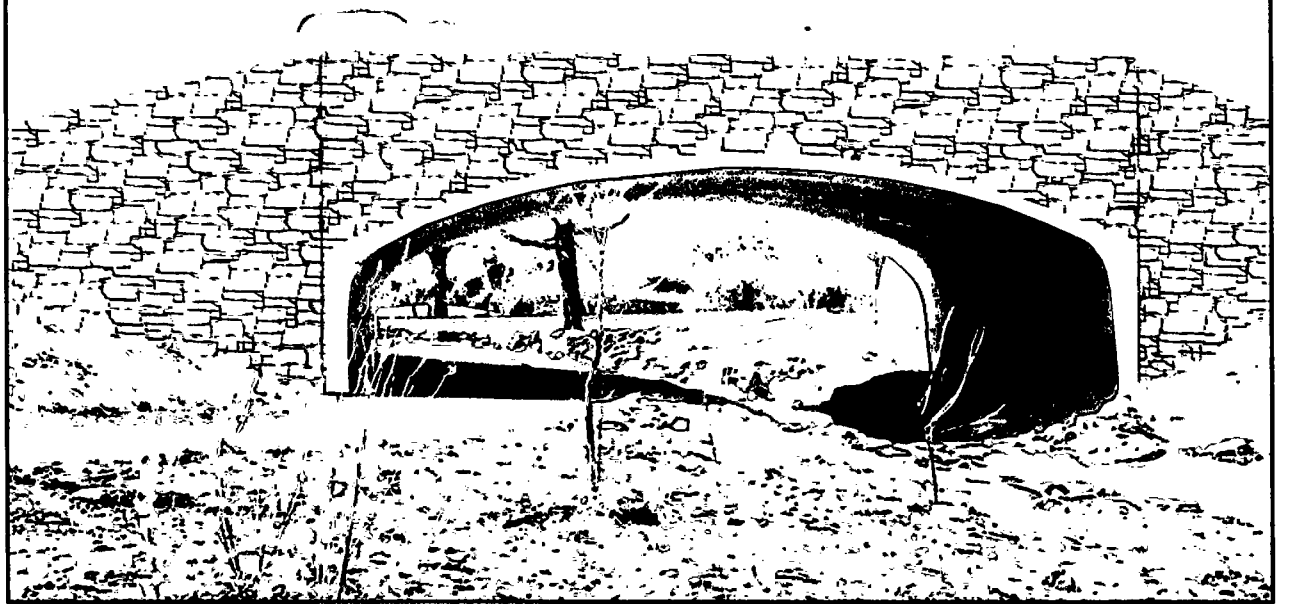
EFFECTIVE DATE: This act is effective when it becomes law.

Giles Perry, Counsel to the House Committee on Transportation, substantially contributed to this summary.

H569-SMSB-35(e1) v2

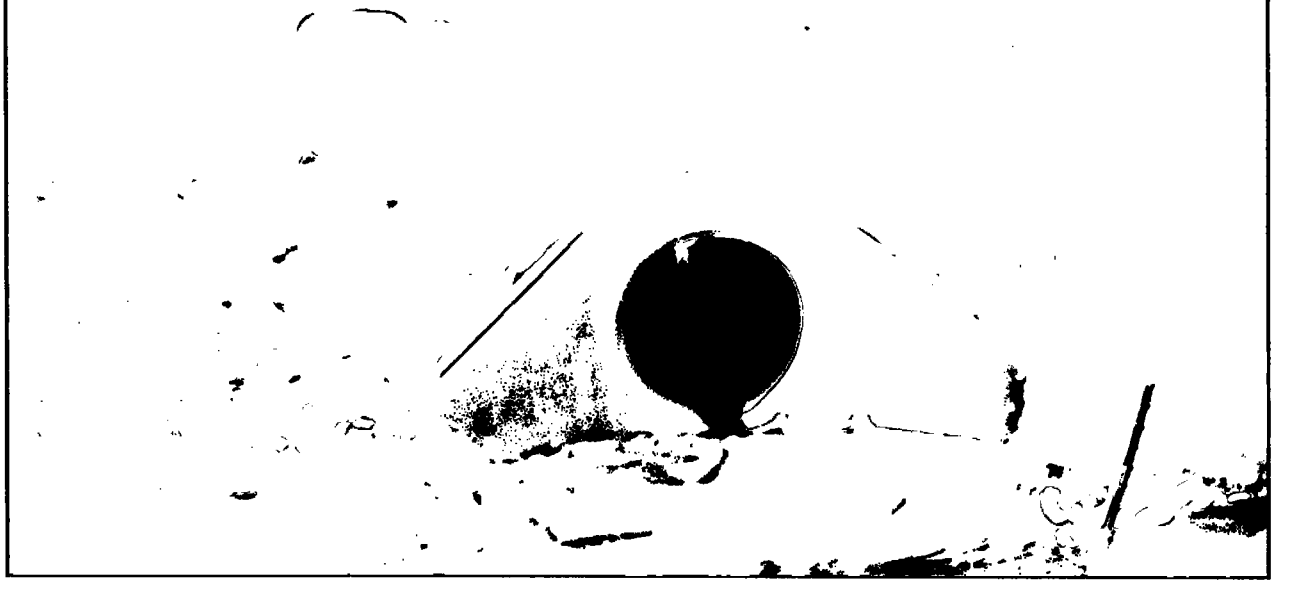
Proposed – Not Approved by DWQ

(rendering of proposed design - not an actual photograph)



As Built – Approved by DWQ

(actual photograph of project as built)



2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

HB 569 A BILL TO BE ENTITLED AN ACT TO DIRECT THE DIVISION OF WATER QUALITY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO AUTHORIZE USE OF THREE-SIDED, OPEN-BOTTOM, OR BOTTOMLESS CULVERTS ON PRIVATE PROPERTY, BASED ON SOUND ENGINEERING PRACTICE, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

☒ With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 1

HOUSE BILL 709*

Short Title:	Environmental Technical Corrections 2009.	(Public)
Sponsors:	Representatives Allen and Gibson (Primary Sponsors).	
Referred to:	Environment and Natural Resources.	

March 23, 2009

A BILL TO BE ENTITLED

AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO VARIOUS LAWS RELATED TO THE ENVIRONMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 120-70.61(c) reads as rewritten:

"**§ 120-70.61. Membership; cochairs; vacancies; quorum.**

(c) Except as otherwise provided in this section, a legislative 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 General Assembly 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 legislative 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 office on the Commission. Any vacancy that occurs on the Commission shall be filled in the same manner as the original appointment."

SECTION 2. G.S. 146-64 reads as rewritten:

"**§ 146-64. Definitions.**

As used in this Chapter:

...

(8) "Swamplands" means lands too wet for cultivation except by drainage, and includes

a. All State lands which have been or are known as "swamp" or "marsh" lands, "pocosin bay," "briary bay" or "savanna," and which are a part of one swamp exceeding 2,000 acres in area, or which are a part of one swamp 2,000 acres or less in area which has been surveyed by the State; and

b. All State lands which are covered by the waters of any state-owned lake or pond.

(9) "Vacant and unappropriated lands" means all State lands title to which is vested in the State as sovereign, and land acquired by the State by virtue of being sold for taxes, except ~~swamplands as hereinafter defined.~~swamplands.

..."

SECTION 3. This act is effective when it becomes law.

HOUSE BILL 709:
Environmental Technical Corrections 2009

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	May 7, 2009
Introduced by:	Reps. Allen, Gibson	**Prepared by:**	Mariah Matheson
Analysis of:	First Edition		Research Assistant

SUMMARY: House Bill 709 would make clarifying, conforming, and technical amendments to various laws related to the environment.

[As introduced, this bill was identical to S838, as introduced by Sen. Albertson, which is currently in Senate Agriculture/Environment/Natural Resources.]

BILL ANALYSIS: House Bill 709 would make the following technical amendments:

Section 1 would amend G.S. 120-70.61(c) to add the word "legislative" before the word "member" in order to differentiate between a legislative member of the Joint Legislative Commission on Seafood and Aquaculture and a public member appointed by the Governor or the Commissioner of Agriculture.

Section 2 would amend G.S. 146-64 to clarify that the definition of vacant and unappropriated lands excludes swamplands as defined in that section.

EFFECTIVE DATE: This act is effective when it becomes law.

H709-SMTF-9(e1) v4

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

HB 709 A BILL TO BE ENTITLED AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO VARIOUS LAWS RELATED TO THE ENVIRONMENT.

☒ With a favorable report.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

HOUSE BILL 713*

Short Title:	Env./Nat. Res. Reports Consolidation 2009.	(Public)
Sponsors:	Representatives Allen, Gibson (Primary Sponsors); and Lucas.	
Referred to:	Environment and Natural Resources.	

March 23, 2009

A BILL TO BE ENTITLED

AN ACT TO AMEND OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES REPORTING REQUIREMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 106-744(i) reads as rewritten:

"(i) The Advisory Committee shall report no later than ~~May 1~~ October 1 of each year to the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission, and the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources regarding the activities of the Advisory Committee, the agriculture easements purchased, and agricultural projects funded during the previous year."

SECTION 2. G.S. 113-44.15(c) reads as rewritten:

"(c) Reports. – The North Carolina Parks and Recreation Authority shall report no later than October 1 of each year to the Joint Legislative Commission on Governmental Operations, the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission on allocations from the Trust Fund from the prior fiscal year. ~~The Authority also shall provide a progress report no later than March 15 of each year to the same recipients on the activities of and the expenditures from the Trust Fund for the current fiscal year.~~"

SECTION 3. G.S. 113-77.9(e) reads as rewritten:

"(e) Reports. – The Secretary shall maintain and annually revise ~~twice each year~~ a list of acquisitions made pursuant to this Article. The list shall include the acreage of each tract, the county in which the tract is located, the amount paid from the Fund to acquire the tract, and the State department or division responsible for managing the tract. The Secretary shall furnish a copy of the list to each Trustee, the Joint Legislative Commission on Governmental Operations, the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission ~~within 30 days after each revision.~~ no later than October 1 of each year."

SECTION 4. G.S. 143-58.2(f) is repealed.

SECTION 5. This act becomes effective January 1, 2010.

HOUSE BILL 713:
Env./Nat. Res. Reports Consolidation 2009

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	May 7, 2009
Introduced by:	Reps. Allen, Gibson	**Prepared by:**	Mariah Matheson
Analysis of:	First Edition		Research Assistant

SUMMARY: House Bill 713 would amend or repeal various environmental and natural resources reporting requirements.

[As introduced, this bill was identical to S836, as introduced by Sen. Albertson, which is currently in Senate Agriculture/Environment/Natural Resources.]

BILL ANALYSIS: House Bill 713 would amend the following reporting requirements:

Section 1 would change the annual reporting date for the Agricultural Development and Farmland Preservation Trust Fund Advisory Committee from May 1 to October 1.

Section 2 would delete the requirement that the Parks and Recreation Authority provide a progress report by March 15 of each year.[1]

Section 3 would modify the frequency by which the Secretary of the Department of Environment and Natural Resources (DENR) is required to maintain and revise a list of acquisitions of land with funds from the Natural Heritage Trust Fund from bi-annual to annual. Section 3 would also change the eporting date from "within 30 days after each revision" to "no later than October 1 of each year."

Section 4 would repeal the reporting requirement for each State department, institution, agency, community college, and local school administrative unit authorized to purchase materials and supplies, to report to the Division of Pollution Prevention and Environmental Assistance within DENR, the amounts and types of materials and supplies with recycled content that were purchased during the previous fiscal year and its progress toward reaching the goals under G.S. 143-58.3.[2]

EFFECTIVE DATE: This act becomes effective January 1, 2010.

H713-SMTF-10(e1) v1

[1] The Parks and Recreation Authority would still be required to submit an annual report on October 1.
[2] G.S. 143-58.3, declares the State's goal to purchase recycled paper and paper products

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

HB 713 A BILL TO BE ENTITLED AN ACT TO AMEND OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES REPORTING REQUIREMENTS.

☒ With a favorable report.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

HOUSE BILL 1236
Committee Substitute Favorable 5/6/09

Short Title: Promote Water Use Efficiency. (Public)

Sponsors:

Referred to:

April 9, 2009

A BILL TO BE ENTITLED

AN ACT TO PROMOTE VOLUNTARY, YEAR-ROUND WATER CONSERVATION AND WATER USE EFFICIENCY MEASURES BY COMMERCIAL AND INDUSTRIAL WATER USERS.

Whereas, North Carolina recognizes that water is our most basic and precious natural resource; and

Whereas, North Carolina has experienced extreme drought in the past several years and expects to experience extreme drought in the future; and

Whereas, the efficient use of water is of utmost importance; and

Whereas, the best and least expensive source of "new" water is improved efficiency in water use; and

Whereas, North Carolina should reward and promote best management practices and leadership efforts in water efficiency; and

Whereas, there are voluntary efforts underway that encourage and promote water use efficiency; and

Whereas, there are commercial and industrial water users that are currently utilizing water conservation measures to the maximum extent possible; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-355.2 is amended by adding a new subsection to read:

"(h1) An industry-specific trade or professional organization representing users of water for commercial or industrial purposes may establish a voluntary water conservation and water use efficiency certification program to encourage and promote the use of year-round water conservation and water use efficiency measures as follows:

(1) A water conservation and water use efficiency certification may only be issued to a person that demonstrates that water use from its water consuming processes is reduced by and maintained at twenty percent (20%) or more below the yearly average water use for the calendar year preceding application for certification. In order to receive and maintain certification, a person must have its facility inspected on an annual basis by a licensed plumbing contractor who will measure water flow and inspect equipment for leaks to determine if the applicant is in compliance with the standards of the certification program.

(2) A unit of local government that provides public water service or a large community water system shall recognize and credit a commercial or industrial water user that has met the standards of a certification program for at least six months prior to the most recent extreme drought designation for water conservation achieved under the program. To the extent that a tiered

response stage in the water shortage response plan requires commercial or industrial users to implement a percentage reduction in use, a user certified under a certification program shall be credited with the percentage reduction achieved by measures implemented under the certification program. Users certified under a program shall not be required to reduce consumption more than any other class of commercial or industrial water users during a water shortage emergency.

(3) If a unit of local government that provides public water service or a large community water system believes that a certification program or a person certified under a certification program is not complying with the terms and standards of the certification program, it may ask the Division of Water Resources in the Department of Environment and Natural Resources to investigate. If the Division determines that the program or person certified under the program is not complying with the terms and standards of the certification program, the local government may refuse to recognize and credit conservation measures as provided in subdivision (2) of this subsection."

SECTION 2. This act becomes effective January 1, 2010.

HOUSE BILL 1236:
Promote Water Use Efficiency

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	May 12, 2009
Introduced by:	Representatives Gibson, Wilkins	**Prepared by:**	Jeff Hudson
Analysis of:	Second Edition		Committee Counsel

SUMMARY: House Bill 1236 would allow industry-specific organizations representing commercial or industrial water users to establish voluntary water conservation and water use efficiency certification programs. A water user certified under such a program could receive credit for its voluntary conservation measures if a local government implements mandatory water conservation measures.

CURRENT LAW: Under current law, each unit of local government that provides public water service and each large community water system must develop and implement water conservation measures to respond to drought or other water shortage conditions. These measures must be set out in a water shortage response plan and submitted to the Department of Environment and Natural Resources (DENR) for review and approval. For a plan to be approved by DENR, it must include tiered levels of water conservation measures or other response actions based on the severity of water shortage conditions.

BILL ANALYSIS: House Bill 1236 would allow industry-specific organizations representing commercial or industrial water users to establish voluntary water conservation and water use efficiency certification programs.

A water conservation and water use efficiency certification could only be issued to a person that demonstrates that water use from its water consuming processes is reduced by and maintained at twenty percent (20%) or more below the yearly average water use for the calendar year preceding application for certification. In order to receive and maintain certification and to ensure compliance, a person must have its facility inspected on an annual basis by a licensed plumbing contractor.

A unit of local government that provides public water service or a large community water system would recognize and credit a commercial or industrial water user that has met the standards of a certification program for at least six months prior to the most recent extreme drought designation for water conservation achieved under the program. Water users certified under a certification program would not be required to reduce consumption more than any other class of commercial or industrial water users during a water shortage emergency.

If a unit of local government that provides public water service or a large community water system believes that a certification program or a person certified under a certification program is not complying with the terms and standards of the certification program, it may ask the Division of Water Resources in DENR to investigate. If the Division determines that the program or person certified under the program is not complying with the terms and standards of the certification program, the local government may refuse to recognize and credit conservation measures

EFFECTIVE DATE: This act would become effective January 1, 2010.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒Committee Substitute for

HB 1236 A BILL TO BE ENTITLED AN ACT TO PROMOTE VOLUNTARY, YEAR-ROUND WATER CONSERVATION AND WATER USE EFFICIENCY MEASURES BY COMMERCIAL AND INDUSTRIAL WATER USERS.

☒ With a favorable report.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

May 12 , 2009

SPEAKERS: PLEASE SIGN IN BELOW

Name & Title	Representing (Agency/Company)	Bill #	Support/ Oppose
FRANK FRANCISI	NC COMPOSTING COUNCIL	1100	SUPPORT
Matt Mas	NCDENR IDWR	567	Oppose
Katheryn Sawyer Westcott	ALEC/NC	569	Support
Tom Beam	NCWF	"	Oppose

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — May 12, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Doug Hamy	NCDCW A
Gary Harris	NC Professional Carwash Assoc.
Dale Reynolds	NCPCWA
Cody Thomas	NC Assn of Realtors
Betsy Bailey	PENC
Charles Case	Hunton & Williams
Jay Stem	NCAA
Cameron Hardy	Electric Cities of NC.
Nancy Thompson	weyerhaeuser
Anthony Allison	NCAE
Kim Hibbard	NCLM

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — May 12, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
T Reuler	DWR
Jon Risgaard	DWQ
Bradley Bennett	DWQ
Coleen H. Sullins	DENR/DWQ
Matt Matthews	DENR/DWQ
Elizabeth Biser	DENR
Kathryn Sawyer Westcott	ACEC/NC
Robin Smith	DENR
Dan Conrad	NCCN
[illegible]	Nicholas Inst / Duke
Amy Pickle	Nicholas Institute / Duke University
[illegible]	Biofuels Ctr of NC

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — May 12, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Edgar Miller	CTNC
Tom Cors	TNC
Kevin Davis	TNC
Dan Lunsford	CCR
Betsy McCorkle	CCNC
Kelly Blandford	Nicholas Institute
Tom Bean	NCWF, NCEDF
Sarah Clapp	NCWRC
Zach Pritchett	CAA
Gary Hunt	DENR
[illegible]	CAA

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — May 12, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jim Stegall	UCPS

VISITOR REGISTRATION SHEET

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jim Johnson	BSA
Anne Coan	NC Farm Bureau Fed
L. Andrews	NCFB
J Beasley	GIC
Lisa Martin	NC Home Builders
Jim Lowry	NC Utility Contractors Assn
Emily Doyle	NCPAPA
Cara Brackett	ncsba
Katherine W Joyce	NCASA
M. Pettle	NCFB

House Pages

ENVIRONMENT & NATURAL RESOURCES

Name of Committee: _____ Date: MAY 12, 2009

1. Name: Rob Lytle

County: Colonial Heights VA

Sponsor: _____

2. Name: Mitchell Marlowe

County: Springfield Gardens, NY

Sponsor: _____

3. Name: _____

County: _____

Sponsor: _____

4. Name: _____

County: _____

Sponsor: _____

5. Name: _____

County: _____

Sponsor: _____

Sgt-At-Arms

Name: FRED HINES 4. FRANK PREVO

2. Name: CARLTON ADAMS 5. HENRY WORTH

3. Name: CHARLES COKER 6. DAVID SHEARON

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

May 12, 2009

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Tuesday, May 12, 2009, in room 643 of the Legislative Office Building. Representative Lucy T. Allen presided. Members present were: Representatives Gillespie, Vice-Chair; Representatives K. Alexander, McComas, and West.

Representative Allen called the meeting to order at 6:35 p.m. She dispensed with introductions in the interest of time. She invited Representative Gillespie to assume the chair so that she could present one of her bill, the only item on the agenda.

Representative Gillespie recognized Representative Allen to explain Committee Substitute for HB 1100 – A BILL TO BE ENTITLED AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO ESTABLISH STORMWATER CONTROL BEST MANAGEMENT PRACTICES FOR COMPOSTING OPERATIONS AND MULCH OPERATIONS FOR THE PURPOSE OF PROTECTING WATER QUALITY. A proposed committee substitute was distributed and Representative West moved that the PCS be adopted. There were no objections. At this time, Representative Allen sent forth an amendment (copy attached) to remove references to "mulch." Jennifer McGinnis, Committee Counsel, was recognized to read and explain the amendment. Representative McComas made a motion for approval of the amendment and request that it be incorporated into the PCS. This motion passed without objection. With no questions or comments coming from committee members, Representative McComas made a motion for a favorable report as to the committee substitute bill 2, unfavorable as to committee substitute bill 1. This motion passed unanimously.

With no further business to come before the committee, the meeting was adjourned at 6:40 p.m.

Respectfully submitted,

Lucy T. Allen

Representative Lucy T. Allen, Chair

Shara Graham

Shara Graham, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 1100
Committee Substitute Reported Without Prejudice 4/21/09

Short Title: Stormwater Control BMP's for Compost/Mulch. (Public)

Sponsors:

Referred to:

April 7, 2009

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO ESTABLISH STORMWATER CONTROL BEST MANAGEMENT PRACTICES FOR COMPOSTING OPERATIONS AND MULCH OPERATIONS FOR THE PURPOSE OF PROTECTING WATER QUALITY.

The General Assembly of North Carolina enacts:

SECTION 1. No later than October 1, 2012, the Department of Environment and Natural Resources shall establish stormwater control best management practices for composting operations and for mulch operations that are permitted by the Division of Water Quality of the Department of Environment and Natural Resources and for composting operations and for mulch operations that are permitted by the Division of Waste Management of the Department of Environment and Natural Resources. These best management practices shall be developed for the purpose of protecting water quality by controlling and containing stormwater that is associated with these operations and by reducing the pollutant levels of untreated leachate from these operations so that the runoff or leachate qualifies as stormwater rather than wastewater and by reducing the opportunities for such runoff. In developing these best management practices, the Department of Environment and Natural Resources shall review best management practices adopted by other states and any similar federal programs. The Department of Environment and Natural Resources shall consult with, and take recommendations from, a group of stakeholders that includes the North Carolina Association of County Commissioners, the North Carolina League of Municipalities, the Agricultural Extension Service of North Carolina State University, the North Carolina Chapter of the United States Composting Council, the North Carolina Chapter of the American Water Works Association-Water Environment Federation, the North Carolina Pumper Group, the North Carolina Chapter of the Solid Waste Association of America, the North Carolina Septic Tank Association, and the North Carolina Forestry Association. These best management practices shall address the site size of an operation, the type of compost or mulch production method employed, and the quantity and water quality of the stormwater or wastewater associated with an operation. These best management practices shall also take into account at least all of the following considerations:

(1) Identification of the types of composting operations and mulch operations that are subject to a permit requirement and the specific permit that is required for each type.

(2) Proper maintenance of, and appropriate containment protocols for, composting operations and mulch operations.

(3) Any other appropriate stormwater reduction techniques for composting operations and mulch operations.

(4) Prior to its adopting under this section, the cost and benefits of each best management practice.

(5) Any other issues deemed pertinent by the Department and the stakeholders.

SECTION 2. Until October 1, 2012, when the best management practices under Section 1 of this act become effective, any composting operations and mulch operations shall be allowed to continue to operate according to the current operation's approved site size and as to the operation's current method of producing compost or mulch. This section also applies to new and pending applications for permits during this period of time.

SECTION 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1100
Committee Substitute Reported Without Prejudice 4/21/09
PROPOSED COMMITTEE SUBSTITUTE H1100-CSSB-32 [v.3]

5/11/2009 9:26:41 AM

Short Title: Stormwater Controls for Compost/Mulch. (Public)

Sponsors:

Referred to:

April 7, 2009

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO ESTABLISH STORMWATER CONTROL BEST MANAGEMENT PRACTICES AND PROCESS WATER TREATMENT PROCESSES FOR COMPOSTING OPERATIONS AND MULCH OPERATIONS FOR THE PURPOSE OF PROTECTING WATER QUALITY.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Department of Environment and Natural Resources shall establish standard stormwater control best management practices and standard process water treatment processes or equivalent performance standards for composting operations that are required to be permitted by the Division of Water Quality in the Department and the Division of Waste Management in the Department. These practices, processes, and standards shall be developed for the purpose of protecting water quality by controlling and containing stormwater that is associated with composting operations, by reducing the pollutant levels of process water from composting operations, and by reducing the opportunities for generation of such waters.

SECTION 1.(b) The Division of Water Quality shall clarify that stormwater is water that does not contact anything considered a feed stock, intermediate product, or final product of composting operations. The Division of Water Quality shall clarify that wastewater is leachate and water that contacts feed stocks, intermediate products, or final products, of composting operations. The clarifications shall incorporate available scientifically valid information obtained from sampling and analyses of North Carolina composting facilities and from valid representative data from other states. In addition, the Division of Water Quality shall establish threshold quantities of feedstocks, intermediate products, and final products above which water quality permitting will be required.

SECTION 1.(c) The Department shall establish revised water quality permitting procedures for the composting industry. The revised permitting procedures shall identify the various circumstances that determine which water quality permit is required for various composting activities. The Department shall determine whether selected, low-risk subsets of the composting industry may be suitable for expedited or reduced water quality permitting procedures. The determination shall include consideration of the economic impact of regulatory decisions.

SECTION 1.(d) In developing the practices, processes, and standards and the revised water quality permitting procedures required by this section, the Department shall

review practices, processes, and standards and permitting procedures adopted by other states and similar federal programs.

SECTION 1.(e) The Department shall form a Compost Operation Stakeholder Advisory Group composed of representatives from the North Carolina Chapter of the United States Composting Council, the North Carolina Association of County Commissioners, the North Carolina League of Municipalities, the North Carolina State Agricultural Extension Service, the North Carolina Chapter of the American Water Works Association-Water Environment Federation, the North Carolina Pumper Group, the North Carolina Chapter of the Solid Waste Association of North America, the North Carolina Septic Tank Association, and any individual or group commenting to the Department on issues related to water quality at composting operations. The Compost Operation Stakeholder Advisory Group shall be convened periodically to provide input and assistance to the Department.

SECTION 1.(f) The practices, processes, and standards and the revised permitting procedures shall address the site size of an operation, the nature of the feedstocks composted, the type of compost production method employed, the quantity and water quality of the stormwater or process water associated with composting facilities, the water quality of the receiving waters, as well as operation and maintenance requirements for the resulting standard stormwater control best management practices and standard process water treatment processes.

SECTION 2. Not later than December 31, 2009, the Department shall report to the Environmental Review Commission on the progress of the implementation of the provisions of this act and any recommendations from the Compost Operation Stakeholder Advisory Group and other commenters. The Department shall periodically make other progress reports as the Commission may subsequently direct.

SECTION 3.(a) For the period of time between the effective date of this act and phase-in provided by Section 3.(d) of this act, permits for composting facilities shall be handled as follows:

(1) The Division of Water Quality shall issue interim water quality permit extensions to all composting facilities applying for a water quality permit renewal until the revised final water quality permitting procedures are phased in, as provide in Section 3.(d) of this act. The issuance of interim water quality permit extensions shall be contingent upon no significant changes to the existing quantities, feedstocks, and composting methods permitted by the Division of Waste Management. For any facility found to be causing or contributing to a violation of water quality standards, the Division of Water Quality may subsequently determine that the facility is ineligible for continued coverage under an interim water quality permit extension.

(2) For facilities renewing permits issued by the Division of Waste Management prior to the phase-in provided in Section 3.(d) of this act, but operating without the appropriate water quality permits, the Division of Water Quality will work with those facilities on a case-by-case basis to establish appropriate permit coverage.

(3) New water quality permit applications filed after July 1, 2009 shall be handled on a case-by-case basis.

SECTION 3.(b) Not later than January 1, 2010, the Department shall request comments and recommendations from the Composting Operation Stakeholder Advisory Group as to standard stormwater control best management practices, standard process water treatment processes, and performance standards and the elements of the revised water quality permitting procedures.

SECTION 3.(c) Not later than January 1, 2011, the Department shall establish standard stormwater control best management practices and standard process water treatment

processes or performance standards, including standard methods for the reduction in volume for both of these waters.

SECTION 3.(d) Not later than January 1, 2011, the Department shall begin the phase-in of the revised water quality permitting procedures for the composting industry. Complete phase in of the revised water quality permitting procedures shall be accomplished not later than October 1, 2012.

SECTION 3.(e) Water quality permits for the composting industry shall include a re-opener clause that may be used to revise permit conditions to reflect the results of the stakeholder process.

SECTION 4. This act is effective when it becomes law.

HOUSE BILL 1100:
Stormwater Control BMP's for Compost/Mulch

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	May 11, 2009
Introduced by:	Representative Allen	**Prepared by:**	Jeff Hudson
Analysis of:	PCS to Second Edition H1100-CSSB-32 [v.3]		Committee Counsel

SUMMARY: ***The Proposed Committee Substitute for House Bill 1100 (PCS) would direct the Department of Environment and Natural Resources to establish standard stormwater control best management practices and standard process water treatment processes or equivalent performance standards for composting operations that are required to be permitted by the Department in order to protect water quality.***

BILL ANALYSIS:

The Proposed Committee Substitute for House Bill 1100 (PCS) would direct the Department of Environment and Natural Resources (DENR) to establish standard stormwater control best management practices and standard process water treatment processes or equivalent performance standards for composting operations that are required to be permitted by the Division of Water Quality (DWQ) and the Division of Waste Management (DWM) in DENR. These practices, processes, and standards would be developed to protect water quality by controlling and containing stormwater that is associated with composting operations, by reducing the pollutant levels of process water from composting operations, nd by reducing the opportunities for generation of such waters.

he PCS would also direct DENR to establish revised water quality permitting procedures for the composting industry to identify the various circumstances that determine which water quality permit is required for various composting activities. The determination shall include consideration of the economic impact of regulatory decisions.

DENR would form a Compost Operation Stakeholder Advisory Group to assist it in its work. The Advisory Group would be composed of representatives from the North Carolina Chapter of the United States Composting Council, the North Carolina Association of County Commissioners, the North Carolina League of Municipalities, the North Carolina State Agricultural Extension Service, the North Carolina Chapter of the American Water Works Association-Water Environment Federation, the North Carolina Pumper Group, the North Carolina Chapter of the Solid Waste Association of North America, the North Carolina Septic Tank Association, and any individual or group commenting to the Department on issues related to water quality at composting operations.

During phase-in of the new procedures and requirements, permits for composting facilities would be handled as follows:

- DWQ would issue interim water quality permit extensions to all composting facilities applying for a water quality permit renewal
- For facilities renewing permits issued by the DWM prior to the end of the phase-in period but operating without the appropriate water quality permits, DWQ would work with those facilities on a case-by-case basis to establish appropriate permit coverage.

  New water quality permit applications filed after July 1, 2009 would be handled on a case-by-case basis.

No later than January 1, 2011, DENR would establish standard stormwater control best management practices and standard process water treatment processes or performance standards, including standard methods for the reduction in volume for both of these waters. Also, no later than January 1, 2011, DENR would begin the phase-in of the revised water quality permitting procedures for the composting industry. Complete phase in of the revised water quality permitting procedures would be accomplished no later than October 1, 2012. Water quality permits for the composting industry would include a re-opener clause that may be used to revise permit conditions to reflect the results of the stakeholder process.

EFFECTIVE DATE: This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE 5/12/09

S. B. No. _____ Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE H 100 - CSSB-32 [v. 3]

(Rep.) Allen
Sen.)

1 moves to amend the bill on page 1, line 5
2 ( ) WHICH CHANGES THE TITLE
3 by deleting the phrase "AND MULCH
4 OPERATIONS";
5 and deleting all other references to
6 that phrase throughout the bill.
7
8
9
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18
19

SIGNED Rep. Larry Allen

ADOPTED ✓ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒Committee Substitute # 1 for

HB 1100 A BILL TO BE ENTITLED AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO ESTABLISH STORMWATER CONTROL BEST MANAGEMENT PRACTICES FOR COMPOSTING OPERATIONS AND MULCH OPERATIONS FOR THE PURPOSE OF PROTECTING WATER QUALITY.

☒ With a favorable report as to Committee substitute bill 2, which changes the title, unfavorable as to Committee Substitute Bill 1.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — May 12, 2009; 2nd meeting

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Robin Smith	DENR
Preston Howard	MCIC
Chuck Wakild	DENR/DWQ
Matt Matthews	DENR/DWQ
Doug Lassiter	NCSTA
Frank Francois	NC Composting Council
Kim Hibbard	NCLM
Anne Coan	NC Farm Bureau Fed.
John Monaghan	Piedmont Natural Gas

Rm. 643

House Pages

ENVIRONMENT @ NATURAL
Name of Committee: RESOURCES Date: 5-12-09

1. Name: _____

County: _____

Sponsor: _____

2. Name: _____

County: _____

Sponsor: _____

Name: _____

County: _____

Sponsor: _____

4. Name: _____

County: _____

Sponsor: _____

5. Name: _____

County: _____

Sponsor: _____

Sgt-At-Arms

Name: Bob Rossi FRANK PREVO

2. Name: JAMES WORTH YONNG BAE

3. Name: CHARLES WILLIAMS

NORTH CAROLINA GENERAL ASSEMBLY

ENVIRONMENT AND NATURAL RESOURCES COMMITTEE

2009-2010 SESSION

LUCY T. ALLEN, CHAIR

Room 419-B
Legislative Office Building

HOUSE STANDING COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES
2009-2010 SESSION

Representative Lucy T. Allen, Chair

Vice Chairs

Representative Mitch Gillespie
Representative Pricey Harrison
Representative Carolyn H. Justice
Representative Cullie Tarleton
Representative Alice Underhill

Committee Counsel:
Jeff Hudson
Jennifer McGinnis

Committee Analyst:
Jennifer Mundt

Research Committee Assistant:
Mariah Matheson

Committee Assistant:
Shara Graham

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

May 21, 2009

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Thursday, May 21, 2009, in room 643 of the Legislative Office Building. Representative Lucy T. Allen presided. Members present were: Representatives Gillespie, Harrison, Justice, Tarleton, and Underhill, Vice-Chairs; Representatives Blackwood, Floyd, Killian, McElraft, Samuelson, Stiller, and West.

Representative Allen called the meeting to order at 12:00 noon. She began by introducing the pages: Kathryn Vance, Iredell County (sponsored by Representative Whilden); Danner Washburn, Forsyth County (sponsored by Representative Folwell); Shelby Heller, Harnett County (sponsored by Representative Lewis); and Storm Morgan, Guilford County (sponsored by Representative Jeffus). She then recognized the Sergeant-at-arms staff who were assisting with the meeting: Young Bae, Carlton Adams, Bob Rossi, Frank Prevo, and James Worth.

The first item on the agenda was Committee Substitute for SB 831 - A BILL TO BE ENTITLED AN ACT TO EXTEND CERTAIN PERMITS AND APPROVALS AFFECTING THE PHYSICAL DEVELOPMENT OF REAL PROPERTY LOCATED WITHIN THE STATE OF NORTH CAROLINA, THEREBY SUPERSEDING ALL STATUTORY AND REGULATORY REQUIREMENTS TO THE CONTRARY. A proposed committee substitute was distributed with Representative Floyd making a motion for it to be before the committee. This motion passed without objection. Representative Ty Harrell was recognized to explain the bill in the absence of the bill's primary sponsor, Senator Clodfelter. Representative Harrell began by saying that this is a companion to HB 1490, which passed unanimously on the House floor the previous week. Jennifer Mundt, Committee Analyst, was recognized to explain the PCS to the committee. Paul Wilms with the North Carolina Home Builders Association was recognized to express concerns with the language in the PCS. Jeff Hudson, Staff Counsel, was recognized to respond to these concerns. Other questions and concerns were addressed by Representative Harrell with the assistance of Elizabeth Biser with the Department of Environment and Natural Resources. Representative Justice made a motion for a favorable report as to the House committee substitute bill, unfavorable to the Senate committee substitute bill, and recommendation that the House committee substitute be referred to the Committee on Commerce, Small Business, and Entrepreneurship. The motion passed by a majority vote.

Next on the agenda was SB 141 - A BILL TO BE ENTITLED AN ACT TO LIMIT DRINKING WATER TESTING FOR THE PRESENCE OF VOLATILE ORGANIC COMPOUNDS IN WATER OBTAINED FROM NEWLY CONSTRUCTED PRIVATE DRINKING WATER WELLS BASED UPON THE RISK OF THE COMPOUNDS' PRESENCE. As a proposed committee substitute was distributed, the bill's primary sponsor, Senator Snow, was recognized to explain his bill. Following his remarks, only two questions were presented. Both were satisfactorily answered by Senator Snow. At that time Representative Harrison made a motion for a favorable report as to the House committee substitute bill, unfavorable to the original bill, and recommendation that the House committee substitute bill be referred to the Committee on Health. This motion passed unanimously.

The next piece of legislation on the agenda was Committee Substitute for SB 636 - A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT FUNDS IN THE WATER RESOURCES DEVELOPMENT PROGRAM MAY BE AWARDED TO A LOCAL GOVERNMENT FOR NUISANCE ABATEMENT COSTS THAT THE LOCAL GOVERNMENT CANNOT RECOVER FROM THE OWNER OF THE NUISANCE STRUCTURE AND TO PROVIDE FOR A STUDY OF MEASURES TO MITIGATE THE IMPACT OF EROSION-THREATENED STRUCTURES ON THE PUBLIC BEACH. Senator Brown was called upon to explain his bill. Following his remarks, Representative Allen welcomed questions and comments from committee members. Queries were satisfactorily addressed by Senator Snow with the help of Jeff Hudson, Committee Counsel, and Robin Smith, Assistant Secretary of the Department of Environment and Natural Resources. At this point, Representative Harrison made a motion for a favorable report and recommendation that the bill be referred to the Committee on Water Resources and Infrastructure. This bill passed unanimously.

With no further business to come before the committee, the meeting was adjourned at 12:35 p.m.

Respectfully submitted,

Lucy T. Allen
Representative Lucy T. Allen, Chair

Shara Graham
Shara Graham, Committee Assistant

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE MEETING

MAY 21, 2009
12:00 NOON
Room 643 LOB

Representative Lucy T. Allen, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

SB 141 - Limit Well Water Testing for VOC's
Primary Sponsor: Senator Snow

SB 636 - Reimburse Beach Nuisance Abatement Cost
Primary Sponsor: Senator Brown

SB 831 - Extends Permits Regarding Land Development
Primary Sponsor: Senator Clodfelter

ADJOURNMENT

SENATE BILL 831
Commerce Committee Substitute Adopted 5/11/09

Short Title: Extend Permits Regarding Land Development. (Public)

Sponsors:

Referred to:

March 25, 2009

A BILL TO BE ENTITLED

AN ACT TO EXTEND CERTAIN PERMITS AND APPROVALS AFFECTING THE PHYSICAL DEVELOPMENT OF REAL PROPERTY LOCATED WITHIN THE STATE OF NORTH CAROLINA, THEREBY SUPERSEDING ALL STATUTORY AND REGULATORY REQUIREMENTS TO THE CONTRARY.

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known and may be cited as the "Permit Extension Act of 2009."

SECTION 2. The General Assembly makes the following findings:

(1) There exists a state of economic emergency in the State of North Carolina and the nation, which has drastically affected various segments of the North Carolina economy, but none as severely as the State's banking, real estate, and construction sectors.

(2) The real estate finance sector of the economy is in severe decline due to the creation, bundling, and widespread selling of leveraged securities, such as credit default swaps, and due to excessive defaults on sub-prime mortgages and the resultant foreclosures on a vast scale, thereby widening the mortgage finance crisis. The extreme tightening of lending standards for home buyers and other real estate borrowers has reduced access to the capital markets.

(3) As a result of the crisis in the real estate finance sector of the economy, real estate developers and redevelopers, including homebuilders, and commercial, office, and industrial developers, have experienced an industry-wide decline, including reduced demand, cancelled orders, declining sales and rentals, price reductions, increased inventory, fewer buyers who qualify to purchase homes, layoffs, and scaled back growth plans.

(4) The process of obtaining planning board and zoning board of adjustment approvals for subdivisions, site plans, and variances can be difficult, time consuming, and expensive, both for private applicants and government bodies.

(5) The process of obtaining the myriad other government approvals, such as wetlands permits, treatment works approvals, on-site wastewater disposal permits, stream encroachment permits, flood hazard area permits, highway access permits, and numerous waivers and variances, can be difficult and expensive; further, changes in the law can render these approvals, if expired or lapsed, difficult to renew or reobtain.

(6) County and municipal governments, including local sewer and water authorities, obtain permits and approvals from State government agencies, particularly the Department of Environment and Natural Resources, which permits and approvals may expire or lapse due to the state of the economy and the inability of both the public sector and the private sector to proceed with projects authorized by the permit or approval.

(7) County and municipal governments also obtain determinations of master plan consistency, conformance, or endorsement with State or regional plans, from State and regional government entities that may expire or lapse without implementation due to the state of the economy.

(8) The current national recession has severely weakened the building industry, and many landowners and developers are seeing their life's work destroyed by the lack of credit and dearth of buyers and tenants due to the crisis in real estate financing and the building industry, uncertainty over the state of the economy, and increasing levels of unemployment in the construction industry.

(9) The construction industry and related trades are sustaining severe economic losses, and the lapsing of government development approvals would exacerbate, if not addressed, those losses.

(10) Financial institutions that lent money to property owners, builders, and developers are experiencing erosion of collateral and depreciation of their assets as permits and approvals expire, and the extension of these permits and approvals is necessary to maintain the value of the collateral and the solvency of financial institutions throughout the State.

(11) Due to the current inability of builders and their purchasers to obtain financing under existing economic conditions, more and more once-approved permits are expiring or lapsing, and, as these approvals lapse, lenders must reappraise and thereafter substantially lower real estate valuations established in conjunction with approved projects, thereby requiring the reclassification of numerous loans, which, in turn, affects the stability of the banking system and reduces the funds available for future lending, thus creating more severe restrictions on credit and leading to a vicious cycle of default.

(12) As a result of the continued downturn of the economy and the continued expiration of approvals that were granted by State and local governments, it is possible that thousands of government actions will be undone by the passage of time.

(13) Obtaining an extension of an approval pursuant to existing statutory or regulatory provisions can be both costly in terms of time and financial resources and insufficient to cope with the extent of the present financial conditions; moreover, the costs imposed fall on the public as well as the private sector.

(14) Obtaining extensions of approvals granted by State government is frequently impossible, always difficult, and always expensive, and no policy reason is served by the expiration of these permits, which were approved only after thorough review of the application.

(15) It is the purpose of this act to prevent the wholesale abandonment of already approved projects and activities due to the present unfavorable economic conditions by tolling the term of these approvals for a finite period of time as the economy improves, thereby preventing a waste of public and private resources.

SECTION 3. Definitions. – As used in this act, the following definitions apply:

(1) Approval. – Except as otherwise provided in Section 4 of this act, any detailed statement by a State agency under G.S. 113A-4; any detailed statement submitted by a special purpose unit of government or a private developer of a major development project under G.S. 113A-8; any finding of no significant impact prepared by a State agency under Article 1 of Chapter 113A of the General Statutes; any approval of an erosion and sedimentation control plan granted by a local government or by the North Carolina Sedimentation Control Commission under Article 4 of Chapter 113A of the General Statutes; any permit for major development or minor development, as defined in G.S. 113A-118, or any other permit issued under the Coastal Area Management Act (CAMA), Part 4 of Article 7 of Chapter 113A of the General Statutes; any water or wastewater permit issued under Article 10 or Article 11 of Chapter 130A of the General Statutes; any building permit issued under Article 9 of Chapter 143 of the General Statutes; any discharge, nondischarge, or extension permit issued under Part 1 of Article 21 of Chapter 143 of the General Statutes; any stream origination certifications issued under Article 21 of Chapter 143 of the General Statutes; any water quality certification under Article 21 of Chapter 143 of the General Statutes; any air quality permit issued by the Environmental Management Commission under Article 21B of the General Statutes; any approval by a county of sketch plans, preliminary plats, plats regarding a subdivision of land, a site specific development plan or a phased development plan, a development permit, or a building permit under Article 18 of Chapter 153A of the General Statutes; any approval by a city of sketch plans, preliminary plats, or plats regarding a subdivision of land, a site specific development plan or a phased development plan, a development agreement, or a building permit under Article 19 of Chapter 160A of the General Statutes; any certificate of appropriateness issued by a preservation commission of a city under Part 3C of Article 19 of Chapter 160A of the General Statutes; when the approval under this subdivision pertains to the development of land or to the provision of water or wastewater services by a government entity and whether the approval under this subdivision is in the form of a permit, approval, license, certification, permission, determination, interpretation, exemption, variance, exception, waiver, letter of interpretation, no further action letter, agreement, or any other executive or administrative decision that allows the development or provision of services to proceed.

(2) Area of environmental concern. – An area designated under G.S. 113A-113 by the Coastal Resources Commission.

(3) Development. – The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure or facility, or of any grading, soil removal or relocation, excavation or landfill, or any use or change in the use of any building or other structure or land or extension of the use of land.

(4) Extension period. – The period beginning January 1, 2007, and continuing through December 31, 2010.

(5) Government. – Any municipal, county, regional, or State government, or any agency, department, commission, or other instrumentality thereof.

(6) Substantially altered. – Any change to the plans regarding the approval under subdivision (1) of this section that does not constitute a "permit

amendment" or a "new permit," including a change in ownership or corporate structure of a permitted facility, a change to the permit that is the subject of the approval that increases by ten percent (10%) or more the population or the geographic area to be served by the development project, or a change in the category or characterization of the development project. As used in this subdivision, "permit" includes any license, certification, permission, determination, interpretation, exemption, variance, exception, waiver, letter of interpretation, no further action letter, agreement, or any other executive or administrative decision that allows a development or governmental project to proceed.

SECTION 4.(a) For any government approval in existence during the extension period, the running of the period of approval is automatically suspended for the extension period, except as otherwise provided hereunder; however, the tolling provided for herein shall not extend the government approval more than six months beyond the conclusion of the extension period. Nothing in this act shall shorten the duration that any approval would have had in the absence of this act, nor shall this act prohibit the granting of such additional extensions as are provided by law when the tolling granted by this act expires.

SECTION 4.(b) Nothing in this act shall be deemed to extend or purport to extend:

(1) Any permit or approval under Section 3 of this act when the permit or approval is for a development project that has been substantially altered since the permit or approval was granted, as determined by the government that granted the permit or approval.

(2) Any permit or approval issued by the government of the United States or any agency or instrumentality thereof, or to any permit or approval by whatever authority issued of which the duration of effect or the date or terms of its expiration are specified or determined by or pursuant to law or regulation of the federal government or any of its agencies or instrumentalities.

(3) Any permit or approval issued within an area of environmental concern.

(4) Any Department of Transportation permit other than a right-of-way permit.

SECTION 4.(c) This act shall not affect any administrative consent order issued by the Department of Environment and Natural Resources in effect or issued during the extension period.

SECTION 4.(d) Nothing in this act shall affect the ability of the Secretary of Environment and Natural Resources to revoke or modify a specific permit or approval, or extension thereof pursuant to this act, when that specific permit or approval contains language authorizing the modification or revocation of the permit or approval by the Department of Environment and Natural Resources. Nothing in this act shall affect the ability of the Environmental Management Commission to revoke or modify a specific permit or approval, or extension thereof pursuant to this act, when that specific permit or approval contains language authorizing the modification or revocation of the permit or approval by the Environmental Management Commission.

SECTION 4.(e) In the event that any approval tolled pursuant to this act is based upon the connection to a sanitary sewer system, the approval's extension shall be contingent upon the availability of sufficient capacity, on the part of the treatment facility, to accommodate the development whose approval has been extended. If sufficient capacity is not available, those permit holders whose approvals have been extended shall have priority with regard to the further allocation of gallonage over those approval holders who have not received approval of a hookup prior to the effective date of this act. Priority regarding the distribution of further gallonage to any permit holder who has received the extension of an approval pursuant to this act shall be allocated in order of the granting of the original approval of the connection.

SECTION 4.(f) Nothing in this act shall be construed or implemented in such a way as to modify any requirement of law that is necessary to retain federal delegation to, or assumption by, the State of the authority to implement a federal law or program.

SECTION 5. Each State agency shall, within 30 days after the effective date of this act, place a notice in the North Carolina Register tolling all approvals in conformance with this act.

SECTION 6. The provisions of this act shall be liberally construed to effectuate the purposes of this act.

SECTION 7. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 831
Commerce Committee Substitute Adopted 5/11/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S831-CSTA-20 [v.2]

5/21/2009 9:17:00 AM

Short Title: Extend Permits Regarding Land Development. (Public)

Sponsors:

Referred to:

March 25, 2009

A BILL TO BE ENTITLED

AN ACT TO EXTEND CERTAIN PERMITS AND APPROVALS AFFECTING THE PHYSICAL DEVELOPMENT OF REAL PROPERTY LOCATED WITHIN THE STATE OF NORTH CAROLINA, THEREBY SUPERSEDING ALL STATUTORY AND REGULATORY REQUIREMENTS TO THE CONTRARY.

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known and may be cited as the "Permit Extension Act of 2009."

SECTION 2. The General Assembly makes the following findings:

(1) There exists a state of economic emergency in the State of North Carolina and the nation, which has drastically affected various segments of the North Carolina economy, but none as severely as the State's banking, real estate, and construction sectors.

(2) The real estate finance sector of the economy is in severe decline due to the creation, bundling, and widespread selling of leveraged securities, such as credit default swaps, and due to excessive defaults on sub-prime mortgages and the resultant foreclosures on a vast scale, thereby widening the mortgage finance crisis. The extreme tightening of lending standards for home buyers and other real estate borrowers has reduced access to the capital markets.

(3) As a result of the crisis in the real estate finance sector of the economy, real estate developers and redevelopers, including homebuilders, and commercial, office, and industrial developers, have experienced an industry-wide decline, including reduced demand, cancelled orders, declining sales and rentals, price reductions, increased inventory, fewer buyers who qualify to purchase homes, layoffs, and scaled back growth plans.

(4) The process of obtaining planning board and zoning board of adjustment approvals for subdivisions, site plans, and variances can be difficult, time consuming, and expensive, both for private applicants and government bodies.

(5) The process of obtaining the myriad other government approvals, such as wetlands permits, treatment works approvals, on-site wastewater disposal permits, stream encroachment permits, flood hazard area permits, highway

access permits, and numerous waivers and variances, can be difficult and expensive; further, changes in the law can render these approvals, if expired or lapsed, difficult to renew or reobtain.

(6) County and municipal governments, including local sewer and water authorities, obtain permits and approvals from State government agencies, particularly the Department of Environment and Natural Resources, which permits and approvals may expire or lapse due to the state of the economy and the inability of both the public sector and the private sector to proceed with projects authorized by the permit or approval.

(7) County and municipal governments also obtain determinations of master plan consistency, conformance, or endorsement with State or regional plans, from State and regional government entities that may expire or lapse without implementation due to the state of the economy.

(8) The current national recession has severely weakened the building industry, and many landowners and developers are seeing their life's work destroyed by the lack of credit and dearth of buyers and tenants due to the crisis in real estate financing and the building industry, uncertainty over the state of the economy, and increasing levels of unemployment in the construction industry.

(9) The construction industry and related trades are sustaining severe economic losses, and the lapsing of government development approvals would exacerbate, if not addressed, those losses.

(10) Financial institutions that lent money to property owners, builders, and developers are experiencing erosion of collateral and depreciation of their assets as permits and approvals expire, and the extension of these permits and approvals is necessary to maintain the value of the collateral and the solvency of financial institutions throughout the State.

(11) Due to the current inability of builders and their purchasers to obtain financing under existing economic conditions, more and more once-approved permits are expiring or lapsing, and, as these approvals lapse, lenders must reappraise and thereafter substantially lower real estate valuations established in conjunction with approved projects, thereby requiring the reclassification of numerous loans, which, in turn, affects the stability of the banking system and reduces the funds available for future lending, thus creating more severe restrictions on credit and leading to a vicious cycle of default.

(12) As a result of the continued downturn of the economy and the continued expiration of approvals that were granted by State and local governments, it is possible that thousands of government actions will be undone by the passage of time.

(13) Obtaining an extension of an approval pursuant to existing statutory or regulatory provisions can be both costly in terms of time and financial resources and insufficient to cope with the extent of the present financial conditions; moreover, the costs imposed fall on the public as well as the private sector.

(14) Obtaining extensions of approvals granted by State government is frequently impossible, always difficult, and always expensive, and no policy reason is served by the expiration of these permits, which were approved only after thorough review of the application.

(15) It is the purpose of this act to prevent the wholesale abandonment of already approved projects and activities due to the present unfavorable economic

conditions by tolling the term of these approvals for a finite period of time as the economy improves, thereby preventing a waste of public and private resources.

SECTION 3. Definitions. – As used in this act, the following definitions apply:

(1) Approval. – Except as otherwise provided in Section 4 of this act, any detailed statement by a State agency under G.S. 113A-4; any detailed statement submitted by a special purpose unit of government or a private developer of a major development project under G.S. 113A-8; any finding of no significant impact prepared by a State agency under Article 1 of Chapter 113A of the General Statutes; any approval of an erosion and sedimentation control plan granted by a local government or by the North Carolina Sedimentation Control Commission under Article 4 of Chapter 113A of the General Statutes; any permit for major development or minor development, as defined in G.S. 113A-118, or any other permit issued under the Coastal Area Management Act (CAMA), Part 4 of Article 7 of Chapter 113A of the General Statutes; any water or wastewater permit issued under Article 10 or Article 11 of Chapter 130A of the General Statutes; any building permit issued under Article 9 of Chapter 143 of the General Statutes; any discharge, nondischarge, or extension permit issued under Part 1 of Article 21 of Chapter 143 of the General Statutes; any stream origination certifications issued under Article 21 of Chapter 143 of the General Statutes; any water quality certification under Article 21 of Chapter 143 of the General Statutes; any air quality permit issued by the Environmental Management Commission under Article 21B of the General Statutes; any approval by a county of sketch plans, preliminary plats, plats regarding a subdivision of land, a site specific development plan or a phased development plan, a development permit, or a building permit under Article 18 of Chapter 153A of the General Statutes; any approval by a city of sketch plans, preliminary plats, or plats regarding a subdivision of land, a site specific development plan or a phased development plan, a development agreement, or a building permit under Article 19 of Chapter 160A of the General Statutes; any certificate of appropriateness issued by a preservation commission of a city under Part 3C of Article 19 of Chapter 160A of the General Statutes; when the approval under this subdivision pertains to the development of land or to the provision of water or wastewater services by a government entity and whether the approval under this subdivision is in the form of a permit, approval, license, certification, permission, determination, interpretation, exemption, variance, exception, waiver, letter of interpretation, no further action letter, agreement, or any other executive or administrative decision that allows the development or provision of services to proceed.

(2) Area of environmental concern. – An area designated under G.S. 113A-113 by the Coastal Resources Commission.

(3) Development. – The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure or facility, or of any grading, soil removal or relocation, excavation or landfill, or any use or change in the use of any building or other structure or land or extension of the use of land.

(4) Extension period. – The period beginning January 1, 2007, and continuing through December 31, 2010.

(5) Government. – Any municipal, county, regional, or State government, or any agency, department, commission, or other instrumentality thereof.

SECTION 4.(a) For any government approval in existence during the extension period, the running of the period of approval is automatically suspended for the extension period, except as otherwise provided hereunder; however, the tolling provided for herein shall not extend the government approval more than six months beyond the conclusion of the extension period. Nothing in this act shall shorten the duration that any approval would have had in the absence of this act, nor shall this act prohibit the granting of such additional extensions as are provided by law when the tolling granted by this act expires.

SECTION 4.(b) Nothing in this act shall be deemed to extend or purport to extend:

(1) Any permit or approval under Section 3 of this act when the permit or approval is for a development project that has been substantially altered since the permit or approval was granted, as determined by the government entity that granted the permit or approval.

(2) Any permit or approval issued by the government of the United States or any agency or instrumentality thereof, or to any permit or approval by whatever authority issued of which the duration of effect or the date or terms of its expiration are specified or determined by or pursuant to law or regulation of the federal government or any of its agencies or instrumentalities.

(3) Any Department of Transportation permit other than a right-of-way permit.

SECTION 4.(c) This act shall not affect any administrative consent order issued by the Department of Environment and Natural Resources in effect or issued during the extension period.

SECTION 4.(d) Nothing in this act shall affect the ability of the Secretary of Environment and Natural Resources to revoke or modify a specific permit or approval, or extension thereof pursuant to this act, when that specific permit or approval contains language authorizing the modification or revocation of the permit or approval by the Department of Environment and Natural Resources. Nothing in this act shall affect the ability of the Environmental Management Commission to revoke or modify a specific permit or approval, or extension thereof pursuant to this act, when that specific permit or approval contains language authorizing the modification or revocation of the permit or approval by the Environmental Management Commission.

SECTION 4.(e) In the event that any approval tolled pursuant to this act is based upon the connection to a sanitary sewer system, the approval's extension shall be contingent upon the availability of sufficient capacity, on the part of the treatment facility, to accommodate the development whose approval has been extended. If sufficient capacity is not available, those permit holders whose approvals have been extended shall have priority with regard to the further allocation of gallonage over those approval holders who have not received approval of a hookup prior to the effective date of this act. Priority regarding the distribution of further gallonage to any permit holder who has received the extension of an approval pursuant to this act shall be allocated in order of the granting of the original approval of the connection.

SECTION 4.(f) Nothing in this act shall be construed or implemented in such a way as to modify any requirement of law that is necessary to retain federal delegation to, or assumption by, the State of the authority to implement a federal law or program.

SECTION 5. Each State agency shall, within 30 days after the effective date of this act, place a notice in the North Carolina Register tolling all approvals in conformance with this act.

SECTION 6. The provisions of this act shall be liberally construed to effectuate the purposes of this act.

SECTION 7. This act is effective when it becomes law.

SENATE BILL 831:
Extend Permits Regarding Land Development

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Commerce, Small Business, and Entrepreneurship	**Date:**	May 21, 2009
Introduced by:	Senator Clodfelter	**Prepared by:**	Jennifer Mundt Legislative Analyst
Analysis of:	PCS to Second Edition S831-CSTA-20 [v.1]		

SUMMARY: ***The Proposed Committee Substitute for Senate Bill 831 would extend the duration of certain permits and approvals affecting physical development of real property in the State***

[As introduced, this bill was identical to H1490, as introduced by Reps. Harrell, Goforth, Dollar, Tillis.]

BILL ANALYSIS: The PCS for Senate Bill 831 would extend the term of certain government-issued permits and approvals for a finite term. The bill would automatically suspend the running of a permit or approval that is in existence for the term January 1, 2007 through December 31, 2010 for:

- Environmental impact statements and findings of no significant impact required pursuant to the State Environmental Policy Act.
- Erosion and sedimentation control plan approvals granted by the North Carolina Sedimentation Control Commission or local government.
- Coastal Area Management Act (CAMA) major permits, minor permits, and any other permit issued under CAMA.
- Water and wastewater permits issued by the Department of Environment and Natural Resources (DENR) or local health departments.
- Building permits issued under the State Building Code.
- Water discharge permits issued by DENR.
- Stream origination certifications and water quality certifications issued by DENR.
- Air quality permits issued by the Environmental Management Commission (EMC).
- Approval of sketch plans, preliminary plats or plats regarding subdivision of land, site specific development plans or phased development plans, development agreements, or building permits issued by cities or counties.
- Certificates of appropriateness issued by a preservation commission of a city.

The suspension period for any permit or approval would not extend beyond June 30, 2011. The automatic extension authorized under this act would not apply to the following:

- Any permit or approval that has been substantially altered, as determined by the government entity that granted the permit or approval, since the time when the permit or approval was granted.
- Permits issued by the federal government.

- Department of Transportation permits other than a right-of-way permit.

The PCS would not affect any administrative consent order issued by DENR in effect or issued during the extension. The Secretary of Environment and Natural Resources and the EMC may modify or revoke a specific permit or approval if the permit or approval provides for such modification or revocation.

The PCS contains provisions for connections to sanitary sewer systems contingent on the availability of sufficient capacity. If sufficient capacity is not available, permit holders with approved extensions will have priority on additional capacity over approved holders who did not receive approval of a sanitary sewer connection prior to the effective date of this bill. Priority regarding the distribution of additional treatment capacity for permit holders receiving extensions will be allocated in order of the granting of the original approval of the connection.

The **PCS** makes two clarifying and conforming changes and removes the definition of "substantially altered" from the 2nd Edition of the bill.

EFFECTIVE DATE: This act is effective when it becomes law.

S831-SMTA-48(CSTA-20) v2

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒Committee Substitute for

SB 831 A BILL TO BE ENTITLED AN ACT TO EXTEND CERTAIN PERMITS AND APPROVALS AFFECTING THE PHYSICAL DEVELOPMENT OF REAL PROPERTY LOCATED WITHIN THE STATE OF NORTH CAROLINA, THEREBY SUPERSEDING ALL STATUTORY AND REGULATORY REQUIREMENTS TO THE CONTRARY.

☒ With a favorable report as to the House committee substitute bill, unfavorable as to Senate Committee Substitute Bill and recommendation that the House committee substitute bill be re-referred to the Committee on COMMERCE, SMALL BUSINESS, AND ENTREPRENEURSHIP.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

S 1

SENATE BILL 141

Short Title:	Limit Well Water Testing for VOC's.	(Public)
Sponsors:	Senators Snow; Jacumin and Tillman.	
Referred to:	Agriculture/Environment/Natural Resources.	

February 12, 2009

A BILL TO BE ENTITLED

AN ACT TO LIMIT DRINKING WATER TESTING FOR THE PRESENCE OF VOLATILE ORGANIC COMPOUNDS IN WATER OBTAINED FROM NEWLY CONSTRUCTED PRIVATE DRINKING WATER WELLS BASED UPON THE RISK OF THE COMPOUNDS' PRESENCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 87-97(h) reads as rewritten:

"(h) **(Effective October 1, 2009)** Drinking Water Testing. – Within 30 days after it issues a certificate of completion for a newly constructed private drinking water well, the local health department shall test the water obtained from the well or ensure that the water obtained from the well has been sampled and tested by a certified laboratory in accordance with rules adopted by the Commission for Public Health. The water shall be tested for the following parameters: arsenic, barium, cadmium, chromium, copper, fluoride, lead, iron, magnesium, manganese, mercury, nitrates, nitrites, selenium, silver, sodium, zinc, pH, and bacterial ~~indicators,~~ indicators. The local health department shall make a specific determination as to whether the water obtained from the well shall be tested for the following additional parameters based on the risk of their presence at the site of the newly constructed private drinking water well: methyl tert-butyl ether, ethylene dibromide, 1,2-dichloroethane, 1,2-dichloropropane, isopropyl ether, benzene, toluene, ethylbenzene, xylenes, trichloroethylene, and tetrachloroethylene."

SECTION 2. This act becomes effective October 1, 2009.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 141
PROPOSED HOUSE COMMITTEE SUBSTITUTE S141-CSRI-29 [v.3]

5/21/2009 11:47:38 AM

Short Title: Limit Well Water Testing for VOC's. (Public)

Sponsors:

Referred to:

February 12, 2009

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE COMMISSION FOR PUBLIC HEALTH TO ADOPT RULES CONCERNING WHEN TESTING FOR VOLATILE ORGANIC COMPOUNDS IN NEWLY CONSTRUCTED PRIVATE DRINKING WATER WELLS IS REQUIRED, AND TO LIMIT DRINKING WATER TESTING FOR THE PRESENCE OF VOLATILE ORGANIC COMPOUNDS IN ACCORDANCE WITH THOSE RULES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 87-97(h) reads as rewritten:

"(h) Drinking Water Testing. – Within 30 days after it issues a certificate of completion for a newly constructed private drinking water well, the local health department shall test the water obtained from the well or ensure that the water obtained from the well has been sampled and tested by a certified laboratory in accordance with rules adopted by the Commission for Public Health. The water shall be tested for the following parameters: arsenic, barium, cadmium, chromium, copper, fluoride, lead, iron, magnesium, manganese, mercury, nitrates, nitrites, selenium, silver, sodium, zinc, pH, and bacterial ~~indicators,~~ indicators. The local health department shall also test the water obtained from the well for the following parameters when required to do so pursuant to rules adopted by the Commission for Public Health: methyl tert-butyl ether, ethylene dibromide, 1,2-dichloroethane, 1,2-dichloropropane, isopropyl ether, benzene, toluene, ethylbenzene, xylenes, trichloroethylene, and tetrachloroethylene."

SECTION 2. The Commission for Public Health shall adopt rules concerning when testing for volatile organic compounds in newly constructed private drinking water wells under G.S. 87-97 as amended by Section 1 of this act is required in order to protect public health. In developing these rules, the Commission for Public Health shall incorporate the following factors: (i) known current and historic land uses around well sites and associated contaminants; (ii) known contaminated sites within a given radius of a well and any known data regarding dates of contamination, geology, and other relevant factors; (iii) any GIS based information on known contamination sources from databases available to the Department of Environment and Natural Resources; and (iv) visual on-site inspections of well sites.

SECTION 3. Section 12 of S.L. 2008-198 is rewritten to read:

"**SECTION 12.** Section 1 of this act becomes effective ~~1 October 2009.~~1 October 2010. Section 2 of this act is retroactive to 1 November 2007. Section 6 of this act becomes effective 1 October 2008. Subsections (a), (e), and (f) of Section 8 of this act become effective when this act becomes law. Subsections (b), (c), and (d) of Section 8 of this act become effective 1 April 2009 and apply to building permits issued pursuant to G.S. 153A-357 and G.S. 160A-417 for

which applications are received on or after that date. Sections 3, 4, 5, 7, and 9 through 12 of this act are effective when this act becomes law."

SECTION 4. This act is effective when it becomes law, except that Section 1 of this act is effective October 1, 2010.

SENATE BILL 141:
Limit Well Water Testing for VOC's

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Health	**Date:**	May 21, 2009
Introduced by:	Senator Snow	**Prepared by:**	Jennifer Mundt Legislative Analyst
Analysis of:	PCS to First Edition S141-CSRI-29 [v.2]		

SUMMARY: The Proposed Committee Substitute (PCS) for Senate Bill 141 would require the Commission for Public Health to adopt rules concerning when testing for volatile organic compounds (VOCs) in newly constructed private drinking water wells is required and to limit drinking water testing for the presence of VOCs in accordance with those rules.

[As introduced, this bill was identical to H163, as introduced by Reps. West, Haire, Frye, Goforth, which is currently in House Environment and Natural Resources, if favorable, Health.]

CURRENT LAW: G.S. 87-97(h) requires local health departments to test water obtained from newly constructed private drinking water wells or ensure that the water has been sampled and tested by a certified laboratory for a suite of parameters including: specific metals; nutrients; pH; bacterial indicators; and volatile organic compounds (VOCs).

BILL ANALYSIS: The PCS for Senate Bill 141 would clarify that the local health department must test water obtained from a newly constructed private drinking water well for VOCs in accordance with rules adopted by the Commission for Public Health (Commission).

The PCS would require the Commission to adopt rules concerning when testing for VOCs in newly constructed private drinking water wells is required in order to protect public health. The Commission must incorporate the following factors in developing the rules:

1. Known current and historic land uses around well sites and associated contaminants.
2. Known contaminated sites within a given radius of a well and any known data regarding dates of contamination, geology, and other relevant factors.
3. Any GIS based information on known contamination sources from databases available to the Department of Environment and Natural Resources.
4. Visual on-site inspections of well sites.

The PCS would delay the effective date by one year for the testing of VOCs in newly constructed private drinking water wells from October 1, 2009 to October 1, 2010.

EFFECTIVE DATE: Senate Bill 141 is effective when it becomes law.

BACKGROUND: S.L. 2006-2002 (Safe Drinking Water/Private Wells) required the testing of water from newly constructed private drinking water wells for the presence of arsenic, barium, cadmium, chromium, copper, fluoride, lead, iron, magnesium, manganese, mercury, nitrates, nitrites, selenium, silver, sodium, zinc, pH, and bacterial indicators. Section 1 of S.L. 2008-198 (Amend Env. Laws/Env.

Tech. Corrections 2008) added the following VOCs for which testing is required: methyl tert-butyl ether, ethylene dibromide, 1,2-dichloroethane, 1,2-dichloropropane, isopropyl ether, benzene, toluene, ethylbenzene, xylenes, trichloroethylene, and tetrachloroethylene.

The estimated total cost for the State Health Laboratory to analyze well water for the suite of parameters set out in existing law in addition to the VOCs is $209[1] per sample.

S141-SMTA-50(CSRI-29 v1) v2

[1] Per North Carolina State Health Lab Director Dr. Leslie Wolf.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

SB 141 A BILL TO BE ENTITLED AN ACT TO LIMIT DRINKING WATER TESTING FOR THE PRESENCE OF VOLATILE ORGANIC COMPOUNDS IN WATER OBTAINED FROM NEWLY CONSTRUCTED PRIVATE DRINKING WATER WELLS BASED UPON THE RISK OF THE COMPOUNDS' PRESENCE:

☒ With a favorable report as to the House committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the House committee substitute bill be re-referred to the Committee on HEALTH.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

SENATE BILL 636

Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/28/09

Short Title: Reimburse Beach Nuisance Abatement Cost. (Public)

Sponsors:

Referred to:

March 18, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT FUNDS IN THE WATER RESOURCES DEVELOPMENT PROGRAM MAY BE AWARDED TO A LOCAL GOVERNMENT FOR NUISANCE ABATEMENT COSTS THAT THE LOCAL GOVERNMENT CANNOT RECOVER FROM THE OWNER OF THE NUISANCE STRUCTURE AND TO PROVIDE FOR A STUDY OF MEASURES TO MITIGATE THE IMPACT OF EROSION-THREATENED STRUCTURES ON THE PUBLIC BEACH.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.71 reads as rewritten:

"**§ 143-215.71. Purposes for which grants may be requested.**

Applications for grants may be made for the nonfederal share of water resources development projects for the following purposes in amounts not to exceed the percentage of the nonfederal costs indicated:

(1) General navigation projects that are sponsored by local governments – eighty percent (80%);

(2) Recreational navigation projects – twenty-five percent (25%);

(3) Construction costs for water management (flood control and drainage) purposes, including utility and road relocations not funded by the State Department of Transportation – sixty-six and two-thirds percent (66 2/3%), but only of that portion of the project specifically allocated for such flood control or drainage purposes;

(4) Stream restoration – sixty-six and two-thirds percent (66 2/3%);

(5) Protection of privately owned beaches where public access is allowed and provided for – seventy-five percent (75%);

(6) Land acquisition and facility development for water-based recreation sites operated by local governments – fifty percent (50%);

(7) Aquatic weed control projects sponsored by local governments – fifty percent ~~(50%).~~(50%); or

(8) Reimbursement of costs incurred by a local government to abate a nuisance caused by a structure that has been damaged or destroyed in the ocean hazard area of environmental concern as designated by the Coastal Resources Commission pursuant to G.S. 113A-113. – one hundred percent (100%) of the nuisance abatement costs that the local government cannot recover from the owner of the structure."

SECTION 2.(a) The Department of Environment and Natural Resources, in consultation with the North Carolina Department of Insurance, the Federal Emergency Management Agency, and local government representatives from municipalities and counties

with jurisdiction over ocean and inlet shorelines, shall study measures to mitigate the impact of erosion-threatened structures on the public beach and reduce potential public costs by relocating imminently threatened structures. In conducting the study, the Department of Environment and Natural Resources shall do all of the following:

(1) Identify potential sources of funding for relocation of structures, including federal hazard mitigation funds and insurance policies.

(2) Review programs in other states that address erosion hazards through relocation of imminently threatened structures.

(3) Describe existing State and local government authority to address erosion-threatened structures on ocean and inlet shorelines.

(4) Identify potential obstacles to creation of a hazard mitigation program to relocate imminently threatened structures.

SECTION 2.(b) The Department of Environment and Natural Resources shall report the results of the study and any recommendations to the Environmental Review Commission no later than September 1, 2010.

SECTION 3. This act becomes effective July 1, 2009.

SENATE BILL 636:
Reimburse Beach Nuisance Abatement Cost

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Water Resources and Infrastructure, if favorable, Appropriations	**Date:**	May 21, 2009
Introduced by:	Senator Brown	**Prepared by:**	Jeff Hudson Committee Counsel
Analysis of:	Second Edition		

SUMMARY: Senate Bill 636 would add reimbursement of the nuisance abatement costs of removing a damaged or destroyed structure from the beach to the list of eligible projects under the Grants Program for Water Resources Development Projects. The bill would also direct the Department of Environment and Natural Resources to study issues related to relocation of imminently threatened structures from the beach.

[As introduced, this bill was identical to H736, as introduced by Rep. Spear, which is currently in House Environment and Natural Resources.

CURRENT LAW:

The Grants Program for Water Resources Development Projects (Program) authorizes the Secretary of Environment and Natural Resources to accept applications for nonfederal costs relating to water resources development projects sponsored by local governments. Local governments may apply for the following types of projects in amounts that do not exceed the percentage of the nonfederal cost indicated:

- General navigation projects that are sponsored by local governments – (80%)
- Recreational navigation projects – (25%)
- Construction costs for water management (flood control and drainage) purposes, including utility and road relocations not funded by the State Department of Transportation – (66 2/3%), but only of that portion of the project specifically allocated for such flood control or drainage purposes
- Stream restoration – (66 2/3%)
- Protection of privately owned beaches where public access is allowed and provided for – (75%)
- Land acquisition and facility development for water-based recreation sites operated by local governments – (50%)
- Aquatic weed control projects sponsored by local governments – (50%)

In reviewing grant applications, the Secretary must consider the economic, social, and environmental benefits to be provided by the projects; the regional benefits of projects to an area greater than the area under the jurisdiction of the local sponsoring entity; the financial resources of the local sponsoring entity; the environmental impact of the project; and any direct benefit to State owned lands and properties.

BILL ANALYSIS:

Senate Bill 636 would add reimbursement of costs incurred by a local government to abate a nuisance caused by a structure that has been damaged or destroyed in the ocean hazard area of environmental concern as designated by the Coastal Resources Commission to the list of eligible projects under the Grants Program for Water Resources Development Projects. The local government would be eligible for 100% of the nuisance abatement costs that the local government cannot recover from the owner of the structure.

Senate Bill 636 would also direct the Department of Environment and Natural Resources to study issues related to relocation of imminently threatened structures from the beach.

EFFECTIVE DATE: This act would become effective July 1, 2009.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒Committee Substitute for

SB 636 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT FUNDS IN THE WATER RESOURCES DEVELOPMENT PROGRAM MAY BE AWARDED TO A LOCAL GOVERNMENT FOR NUISANCE ABATEMENT COSTS THAT THE LOCAL GOVERNMENT CANNOT RECOVER FROM THE OWNER OF THE NUISANCE STRUCTURE AND TO PROVIDE FOR A STUDY OF MEASURES TO MITIGATE THE IMPACT OF EROSION-THREATENED STRUCTURES ON THE PUBLIC BEACH.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on WATER RESOURCES AND INFRASTRUCTURE.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ The bill/resolution is re-referred to the Committee on _____.

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

May 21 , 2009

SPEAKERS: PLEASE SIGN IN BELOW !

Name & Title	Representing (Agency/Company)	Bill #	Support/ Oppose
Paul Wilms	NCHBA	S 31	—

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — May 21, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jim Stephenson	NCCF
Elizabeth Biser	DENR
Terry L. Pierce	DENR
Sapna Kalsy	DPH
CHRIS HOICE	DPH
Alicia Dow	MWC
Cady Thomas	NC ASSN of REALTORS
Chris Hollis	K&L Gates
Kim Hibbard	NCLM
Jessi Hayes	NC HBA
Paul Wilms	Wilms Consulting

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — **Name of Committee**

May 21, 2009 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Katrina English	NCCN
Dan Conrad	NCCN
Jordan Schrader	Asheville C-T
Evan Kane	NC DENR
Betty Wilcox	NC DENR

VISITOR REGISTRATION SHEET

Transportation Committee — May 12, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Anthony Brown	NCATA
Tom Cors	TNC
R Rogers.	CWMTF

VISITOR REGISTRATION SHEET

~~Transportation~~ Committee — ~~May 12, 2009~~

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Andrew Meehan	MCAEC
Dan Gainford	CCNC
Edgar Miller	CTNC
Jennifer Sasser	Williams Mullen
Leslie Arnold	SOG - Daily Bulletin
Matt Matthews	NC DENR / DWQ
Linda Culpepper	NC DENR DWM
Peter Raabe	American Rivers
PGP	NC FB
Robin Smith	DENR
Margaret Holtzell	Environment NC

House Pages

Name of Committee: Environment & Natural Resources Date: 5-21-09

1. Name: Kathryn Vance
   County: Iredell
   Sponsor: Rep. Jane Whilden
2. Name: Danner Washburn
   County: Forsyth
   Sponsor: Tolwell
   Name: Shelby Heller
   County: Harnett
   Sponsor: Rep. Lewis
4. Name: Storm Morgan
   County: Guilford
   Sponsor: Rep. Maggie Jeffus.
5. Name:
   County:
   Sponsor:

Sgt-At-Arms

1. Name: Young Bae Frank Pruvo
2. Name: Carlton Adams James Worth
3. Name: Bob Rossi

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

May 26, 2009

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Tuesday, May 26, 2009, in room 643 of the Legislative Office Building. Representative Lucy T. Allen presided. Members present were: Representatives Gillespie, Harrison, Tarleton, and Underhill, Vice-Chairs; Representatives K. Alexander, Blackwood, Floyd, Haire, Killian, Luebke, Martin, McElraft, Samuelson, Tucker, West, and Womble.

Representative Allen called the meeting to order at 12:05 p.m. She began by introducing the pages: Hillary Mushaka, Wayne County (sponsored by Representative Wainwright) and Lindsay Stutts, Wayne County (sponsored by Representative Bell). She then recognized the Sergeant-at-arms staff who were assisting with the meeting: Fred Hines, Frank Prevo, Carlton Adams, Martha Gadison, and Chrles Coker. At that point, Representative Allen asked Representative Tarleton to preside since she had a bill to present in another committee.

Representative Tarleton noted that the first item on the agenda was Committee Substitute for SB 835 – A BILL TO BE ENTITLED AN ACT TO EXTEND THE LEGISLATIVE COMMISSION ON GLOBAL CLIMATE CHANGE. In the absence of Senator Albertson, the bill's primary sponsor, Representative Harrison was asked to explain the bill. One question was presented and answered by Representative Harrison. At that point, Representative Floyd made a motion for a favorable report with a recommendation that the bill be referred to the Committee on Rules, Calendar, and Operations of the House. This motion received unanimous approval.

Next on the agenda was SB 990 - A BILL TO BE ENTITLED AN ACT TO INCREASE THE CRIMINAL PENALTY FOR CUTTING, INJURING, OR REMOVING ANOTHER'S TIMBER RESULTING IN DAMAGES THAT EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS. Senator Davis, the bill's primary sponsor, was recognized to explain the bill. A number of questions and concerns were presented regarding the need for the bill. The idea was presented that this kind of act might already be covered under current law. In light of the uncertainties, Senator Davis agreed to displace the bill until these questions could be addressed.

With no further business to come before the committee, the meeting was adjourned at 12:15 p.m.

Respectfully submitted,

Lucy T. Allen
Representative Lucy T. Allen, Chair

Shara Graham
Shara Graham, Committee Assistant

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE MEETING

MAY 26, 2009
12:00 NOON
Room 643 LOB

Representative Lucy T. Allen, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

SB 835 - Extend Coimate Change Commission
Primary Sponsor: Sen. Albertson

SB 990 - Increase Penalty/Timber Theft
Primary Sponsor: Sen. Davis

ADJOURNMENT

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 2

SENATE BILL 835

Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/1/09

Short Title: Extend Climate Change Commission. (Public)

Sponsors:

Referred to:

March 25, 2009

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE LEGISLATIVE COMMISSION ON GLOBAL CLIMATE CHANGE.

Whereas, the Legislative Commission on Global Climate Change was established by S.L. 2005-442 to conduct an in-depth examination of issues related to global climate change; and

Whereas, the Legislative Commission on Global Climate Change has met regularly since its inception in pursuit of its legislative charge; and

Whereas, the Legislative Commission on Global Climate Change needs additional time to carry out its legislative charge; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Section 11 of S.L. 2005-442, as amended by S.L. 2006-73 and S.L. 2008-81, reads as rewritten:

"**SECTION 11.** Reports. – The Commission may submit interim reports at its discretion. The Commission shall submit a final report, including any findings and recommendations, to the ~~2009~~ General Assembly and the Environmental Review Commission on or before ~~1 October 2009~~,October 1, 2010, at which time the Commission shall terminate."

SECTION 2. This act is effective when it becomes law.

SENATE BILL 835:
Extend Climate Change Commission

2009-2010 General Assembly

Committee:	Environment and Natural Resources, if favorable, Rules, Calendar, and Operations of the House	**Date:**	May 26, 2009
Introduced by:	Senator Albertson	**Prepared by:**	Jennifer Mundt Legislative Analyst
Analysis of:	Second Edition		

SUMMARY: The 2nd Edition of Senate Bill 835 would extend the Legislative Commission on Global Climate Change by one year from October 1, 2009 to October 1, 2010.

CURRENT LAW: Section 11 of S.L. 2005-442, as amended by S.L. 2006-73 and S.L. 2008-81, established the Legislative Commission on Global Climate Change (Commission) and directed it to report its findings and recommendations to the General Assembly and the Environmental Review Commission on or before October 1, 2009, at which time the Commission would terminate. Current law also provides that the Commission is authorized to submit interim reports at its discretion.

BILL ANALYSIS: Senate Bill 835 extends the Commission by one year from October 1, 2009 to October 1, 2010 by providing for the submission of a final report, including findings and recommendations to the General Assembly and the Environmental Review Commission on or before October 1, 2010, at which time the Commission would terminate.

EFFECTIVE DATE: Senate Bill 835 would become effective when it becomes law.

BACKGROUND: The Commission met three times during the 2008-2009 legislative interim. The Commission consists of 34 members, nine appointed by the President Pro Tempore of the Senate, nine appointed by the Speaker of the House of Representatives, and 16 named members, or their designees that represent a variety of industries, organizations, and academic institutions. S.L. 2005-442, as amended by S.L. 2006-73 and S.L. 2008-81, charged the Commission with conducting an in-depth examination of issues related to global climate change.

S835-SMTA-52(e2) v2

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒Committee Substitute for

SB 835 A BILL TO BE ENTITLED AN ACT TO EXTEND THE LEGISLATIVE COMMISSION ON GLOBAL CLIMATE CHANGE.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ The bill/resolution is re-referred to the Committee on _____.

SENATE BILL 990
Second Edition Engrossed 5/14/09

Short Title:	Increase Penalty/Timber Theft.	(Public)
Sponsors:	Senators Davis; Apodaca, Bingham, Jenkins, Kinnaird, McKissick, Nesbitt, and Snow.	
Referred to:	Judiciary I.	

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE CRIMINAL PENALTY FOR CUTTING, INJURING, OR REMOVING ANOTHER'S TIMBER RESULTING IN DAMAGES THAT EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-135 reads as rewritten:

"**§ 14-135. Cutting, injuring, or removing another's timber.**

(a) If any person not being the bona fide owner thereof, shall knowingly and willfully cut down, injure or remove any standing, growing or fallen tree or ~~log,~~ log off the property of another, he shall be guilty of a ~~Class 1 misdemeanor.~~ criminal offense as follows:

(1) If the damage caused by a violation of this section is two thousand five hundred dollars ($2,500) or less, then the offense is a Class 1 misdemeanor.

(2) If the damage caused by a violation of this section is more than two thousand five hundred dollars ($2,500), then the offense is a Class I felony.

(b) Subsection (a) of this section shall not apply to a lessee of property who removes a fallen tree or log that poses an imminent threat to persons or property."

SECTION 2. This act becomes effective December 1, 2009, and applies to offenses committed on or after that date.

SENATE BILL 990:
Increase Penalty/Timber Theft

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Judiciary III, if favorable, Appropriations	**Date:**	May 26, 2009
Introduced by:	Senator Davis	**Prepared by:**	Jeff Hudson Committee Counsel
Analysis of:	Second Edition		

SUMMARY: ***Senate Bill 990 would create two levels of criminal penalty for cutting, injuring, or removing the timber of another based on the monetary damage caused.***

CURRENT LAW:

Under G.S. 14-135, if a person other than the owner knowingly and willfully cuts down, injures, or removes any standing, growing, or fallen tree or log, the person is guilty of a Class 1 misdemeanor. This provision has no monetary damage requirement.

BILL ANALYSIS:

Senate Bill 990 would create two levels of criminal penalty in G.S. 14-135 based on the amount of monetary damages as follows:

- If the damage caused is $2,500 or less, then the offense is a Class 1 misdemeanor. Assuming no prior convictions, the penalty for a Class 1 misdemeanor is 1 to 45 days of community service and a fine in the discretion of the court.
- If the damage caused is more than $2,500, then the offense is a Class I felony. Assuming no prior convictions and no aggravating or mitigating circumstances, the presumptive range penalty for a Class I felony is 4 to 8 months of community service and a fine in the discretion of the court.

The bill would also provide that G.S. 14-135 does not apply to a lessee of property who removes a fallen tree or log that poses an imminent threat to persons or property.

EFFECTIVE DATE: This act would become effective December 1, 2009, and apply to offenses committed on or after that date.

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — May 26, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
	NCFB
Thom Moore	good & right
John Poland	NCAHA
Chris Hollis	K OL Bates
Jim Johnson	BSA
Andrew Meeha	NCAEC
Nancy Thompson	weyerhaeuser
DAVID BARNES	Poyner Spruill
Kathy Hawkins	Progress Energy
Bob Brown	NCFA
Preston Howard	NCIC
Patrick Bafford	NMLS

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — May 26, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Monaghan	Piedmont Natural Gas Co.
George Everett	Duke Energy
Lisa Pierce	Duke Energy
Tommy Stevens	NCPC
Melissa Trent	NCAEC
Jeff Pearson	ONWASA
Frank Sanders	Onslow Water & Sewer Authority
Lu-Ann Renegar	NCIC
Carmen Hooker	Electricities of NC

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — May 26, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Leslie Arnold	SOG- Daily Bulletin
Will Culpepper	Moore + Van Allen
Kevin Davis	TNC
Tom Cors	TNC
Elizabeth Watson	Environment North Carolina
Margaret Hartzell	Environment North Carolina
Dan Conrad	NCCN
Betsy McCorkle	CCNC
Dan Crawford	Conservation Trust for NC
R Rogers	CWMTF
Elizabeth Biser	DENR

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — May 26, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lau Rubert	CYPC

House Pages

ENVIRONMENT & NATURAL RES.
Name of Committee: _____ Date: MAY 26, 2009

1. Name: Hillary Mushaka
   County: Wayne
   Sponsor: Wainwright
2. Name: Lindsay Stutts
   County: Wayne
   Sponsor: Rep. Bell
3. Name: _____
   County: _____
   Sponsor: _____
4. Name: _____
   County: _____
   Sponsor: _____
5. Name: _____
   County: _____
   Sponsor: _____

Sgt-At-Arms

1. Name: FRED HINES
2. Name: FRANK PREVO
3. Name: CARLTON ADAMS
4. MARTHA GADISON
5. CHARLES COKER

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

June 2, 2009

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Tuesday, June 2, 2009, in room 643 of the Legislative Office Building. Representative Lucy T. Allen presided. Members present were: Representatives Gillespie, Harrison, Justice, Tarleton, and Underhill, Vice-Chairs; Representatives K. Alexander, Blackwood, Floyd, Killian, Luebke, Martin, McElraft, Samuelson, and Womble.

Representative Allen called the meeting to order at 12:00 noon. She began by introducing the pages: Betsy Bethune, Wilson County (sponsored by Representative Daughtry); Amanda Farquharson, Johnsonton County (sponsored by Representative Daughtry); and Chezney Cunningham, Wake County (sponsored by Representative Parman). She then recognized the Sergeant-at-arms staff members who were assisting with the meeting: Fred Hines, Carlton Adams, Earl Coker, Frank Prevo, James Worth, and David Shearon.

Representative Allen noted that two bills on the agenda, SB 778 and SB 1018, have both been pulled from the day's agenda by the bills' sponsors.

The only remaining item on the agenda was Committee Substitute for SB 990 – A BILL TO BE ENTITLED AN ACT TO INCREASE THE CRIMINAL PENALTY FOR CUTTING, INJURING, OR REMOVING ANOTHER'S TIMBER RESULTING IN DAMAGES THAT EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS. This bill was carried over from the previous meeting on May 26. As a proposed committee substitute was being distributed, Senator Davis was recognized to present the bill. Representative Blackwood made a motion that the PCS be before the committee. This passed without objection. Senator Davis explained that the PCS addressed the questions presented at the last meeting and asked for the support of the committee. A small change to make the language gender neutral was suggested. Committee Counsel indicated that a revised PCS could be prepared to address this. Additional questions were handled by the bill's sponsor with the help of staff. Once all concerns were addressed, Representative Womble was recognized for a motion for a favorable report as to the House committee substitute bill, unfavorable as to the original bill, and recommendation that the House committee substitute bill be referred to the Committee on Judiciary III.

With no further business to come before the committee, the meeting was adjourned at 12:21 p.m.

Respectfully submitted,

Lucy T. Allen

Representative Lucy T. Allen, Chair

Shara Graham

Shara Graham, Committee Assistant

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE MEETING

June 2, 2009
12:00 NOON
Room 643 LOB

Representative Lucy T. Allen, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

SB 778 - Eliminate Overlap Between CAMA and SEPA
Primary Sponsor: Sen. Soles

SB 990 - Increase Penalty/Timber Theft
Primary Sponsor: Sen. Davis

SB 1018 - Ban Certain Single-Use Bags
Primary Sponsor: Sen. Stein

ADJOURNMENT

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 990
Second Edition Engrossed 5/14/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S990-PCS55415-SB-44

Short Title: Increase Penalty/Timber Theft. (Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE CRIMINAL PENALTY FOR CUTTING, INJURING, OR REMOVING ANOTHER'S TIMBER RESULTING IN DAMAGES THAT EXCEED ONE THOUSAND DOLLARS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-135 reads as rewritten:

"**§ 14-135. Cutting, injuring, or removing another's timber.**

(a) If any person not being the bona fide owner thereof, shall knowingly and willfully cut down, injure or remove any standing, growing or fallen tree or ~~log,~~ log off the property of another, ~~he~~ the person shall be guilty of a ~~Class 1 misdemeanor.~~ criminal offense as follows:

(1) If the damage caused by a violation of this section is one thousand dollars ($1,000) or less, then the offense is a Class 1 misdemeanor.

(2) If the damage caused by a violation of this section is more than one thousand dollars ($1,000), then the offense is a Class I felony.

(b) Subsection (a) of this section shall not apply to a lessee of property who removes a fallen tree or log that poses an imminent threat to persons or property."

SECTION 2. This act becomes effective December 1, 2009, and applies to offenses committed on or after that date.

SENATE BILL 990:
Increase Penalty/Timber Theft

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Judiciary III, if favorable, Appropriations	**Date:**	June 2, 2009
Introduced by:	Senator Davis	**Prepared by:**	Jeff Hudson Committee Counsel
Analysis of:	PCS to Second Edition S990-CSSB-44 [v.1]		

SUMMARY: ***The Proposed Committee Substitute for Senate Bill 990 would create two levels of criminal penalty for cutting, injuring, or removing the timber of another based on the monetary damage caused.***

CURRENT LAW:

Under G.S. 14-135, if a person other than the owner knowingly and willfully cuts down, injures, or removes any standing, growing, or fallen tree or log, the person is guilty of a Class 1 misdemeanor. This provision has no monetary damage requirement.

BILL ANALYSIS:

The Proposed Committee Substitute for Senate Bill 990 (PCS) would create two levels of criminal penalty in G.S. 14-135 based on the amount of monetary damages as follows:

If the damage caused is $1,000 or less, then the offense is a Class 1 misdemeanor. Assuming no prior convictions, the penalty for a Class 1 misdemeanor is 1 to 45 days of community service and a fine in the discretion of the court.

- If the damage caused is more than $1,000, then the offense is a Class I felony. Assuming no prior convictions and no aggravating or mitigating circumstances, the presumptive range penalty for a Class I felony is 4 to 8 months of community service and a fine in the discretion of the court.

The PCS would also provide that G.S. 14-135 does not apply to a lessee of property who removes a fallen tree or log that poses an imminent threat to persons or property.

EFFECTIVE DATE: This act would become effective December 1, 2009, and apply to offenses committed on or after that date.

Research Division *O. Walker Reagan, Director* *(919) 733-2578*

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

SB 990 A BILL TO BE ENTITLED AN ACT TO INCREASE THE CRIMINAL PENALTY FOR CUTTING, INJURING, OR REMOVING ANOTHER'S TIMBER RESULTING IN DAMAGES THAT EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS.

☒ With a favorable report as to the House committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the House committee substitute bill be re-referred to the Committee on JUDICIARY III.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 2, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
C Sholls	K & L Gates
Bob Slocum	NCFA
Preston Howard	MCIC
Paul Wilms	
Lisa Martin	NC HBA
Jason Hayes	
Charles Case	Hunton + Williams
John Goodman	NC Chamber
Sean Quinn	Sierra Club
Drew Ball	"

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 2, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	PBV
Butch Gunnells	NC Bev A
Elizabeth Watson	Environment NC
Elizabeth Ouzts	Environment North Carolina
L. Andrews	NCFB
JOHN SHAW	WAKE UP WAKE
[illegible]	Editor: World
[illegible]	Rights Chair NC
[illegible]	NCEMA
Scott MASON	Lowe's
Alicia [illegible]	MWC

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 2, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Amy Simes	Denr
Melba McGee	DENR
Alexandra Embry	DENR
Tom Cors	TNC
Kevin Davis	TNC
David Knight	DENR
Tom Bean	NC EDF, NCWF
Dan Conrad	NCCV
Dan Crawford	CCNC
Betsy McCorkle	CCNC
Elizabeth Biser	DENR

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 2, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Robin Smith	DENR
Xingjian Zhao	SELC NC
Lillette Granade	Southern Environmental Law Center (NC)
Amy Fullbright	Hunton & Wms —
Mont Eagan	NMFS

Rep. ALLEN
Rm. 643
12 PM

House Pages

ENVIRONMENT & NATURAL RESOURCES

Name of Committee: _____ Date: 6-2-09

1. Name: Betsy Bethune
   County: Wilson
   Sponsor: Leo Daughtry
2. Name: Amanda Farquharson
   County: Johnston
   Sponsor: Leo Daughtry
3. Name: Chezney Cunningham
   County: Wake
   Sponsor: Earline Parman
4. Name: _____
   County: _____
   Sponsor: _____
5. Name: _____
   County: _____
   Sponsor: _____

Sgt-At-Arms

1. Name: FRED HINES
2. Name: CARLTON ADAMS
3. Name: EARL COKER

FRANK PREVD
JAMES WORTH
DAVID SHERRON

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

June 9, 2009

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Tuesday, June 9, 2009, in room 1228 of the Legislative Building. Representative Lucy T. Allen presided. Members present were: Representatives Harrison, Tarleton, and Underhill, Vice-Chairs; Representatives K. Alexander, Blackwood, Gibson, Killian, Luebke, McComas, McElraft, Owens, Samuelson, West, and Womble..

Representative Allen called the meeting to order at 12:05 p.m. She began by introducing the pages: Glenn Bailey, Ashe County (sponsored by Representative Tarleton); Powell Eddins, Wake County (sponsored by Representative Weiss); Derek Danner, Davie County (sponsored by Representative Howard); Jazmine Maldonodo, Forsyth County (sponsored by Representative Womble); and Carl Bower, Anson County (sponsored by Representative Gibson). She then recognized the Sergeant-at-arms staff members who were assisting with the meeting: Fred Hines, Earl Coker, Ken Burroughs, Tom Wilder, and Robert Rossi.

The first item on the agenda was Committee Substitute for SB 586 – A BILL TO BE ENTITLED AN ACT TO REQUIRE THE FILING OF NOTICE OF PENDING LITIGATION FOR ACTIONS SEEKING INJUNCTIVE RELIEF REGARDING SEDIMENTATION AND EROSION CONTROL FOR ANY LAND-DISTURBING ACTIVITY THAT IS SUBJECT TO THE REQUIREMENTS OF ARTICLE 4 OF CHAPTER 113A OF THE GENERAL STATUTES. Senator McKissick was recognized to explain the bill, which is a companion to a House bill that had passed through the committee at an earlier date. A number of questions from committee members were satisfactorily addressed by Senator McKissick, the Durham County Attorney, and Jeff Hudson, Staff Counsel. Representative Luebke made a motion for a favorable report for SB 586 and recommendation that the bill be referred to the Committee on Judiciary I. This motion passed by a majority vote.

Next on the agenda was Committee Substitute for SB 1018 - A BILL TO BE ENTITLED AN ACT TO REDUCE PLASTIC AND NONRECYCLED PAPER BAG USE ON NORTH CAROLINA'S OUTER BANKS. Representatives Owens and Spear were recognized to explain the bill as a proposed committee substitute for the bill was being distributed. Representative West moved that the PCS be before the committee. This motion passed without objection. Concerns about the impact this bill would have on tourism and on bag manufacturers were addressed by Representatives Owens and Spear. It was suggested by Representative Owens that certain concerns prompting talk of adding an amendment might be addressed in Commerce Committee since the bill has a serial referral that would send it to that committee. Representative Allen invited speakers to briefly provide their opinions. Rudy Underwood with the American Chemistry Council spoke in opposition to the bill espousing the benefits of using plastic bags. The next speaker was Mark Daniels, Vice-president of Marketing and Environmental Affairs, Hilex Poly Company. He distributed information to the committee members (copy attached) and spoke on the erroneous statistics presented showing plastic bags being detrimental to aquatic life. The third speaker was Jill McQuay with Superbag Corporation, who spoke in opposition to the bill. Andy Ellen with the North Carolina Retailers Association came forward to speak in opposition to the bill as written, detailing the cost involved that would be passed from retailers to buyers. The final speaker was Drew Ball with the Sierra Club, who spoke in support of the bill and its intent to protect the coastal environment. Representative Owens reminded the members

that the Senator and Representatives in the affected areas all supported the bill. Representative Womble was recognized for a motion for a favorable report for the House Committee Substitute bill, unfavorable to the Senate Committee Substitute Bill and recommendation that the House Committee Substitute Bill be referred to the Committee on Commerce, Small Business, and Entrepreneurship. The majority voted in favor of the motion.

With no further business to come before the committee, the meeting was adjourned at 12:50 p.m.

Respectfully submitted,

Representative Lucy T. Allen, Chair

Shara Graham, Committee Assistant

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE MEETING

June 9, 2009
12:00 NOON
Room 643 LOB

Representative Lucy T. Allen, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

SB 586 - File Lis Pendens for Certain Erosion Actions
Primary Sponsor: Sen. McKissick

SB 1018 - Ban Certain Single-Use Bags
Primary Sponsor: Sen. Stein

ADJOURNMENT

S 1

SENATE BILL 586

Short Title:	File Lis Pendens for Certain Erosion Actions.	(Public)
Sponsors:	Senators McKissick; Apodaca, Atwater, Brunstetter, Foriest, Forrester, Graham, Hartsell, Jones, and Stevens.	
Referred to:	Judiciary I.	

March 12, 2009

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE FILING OF NOTICE OF PENDING LITIGATION FOR ACTIONS SEEKING INJUNCTIVE RELIEF REGARDING SEDIMENTATION AND EROSION CONTROL FOR ANY LAND-DISTURBING ACTIVITY THAT IS SUBJECT TO THE REQUIREMENTS OF ARTICLE 4 OF CHAPTER 113A OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 1-116(a) reads as rewritten:

"(a) Any person desiring the benefit of constructive notice of pending litigation must file a separate, independent notice thereof, which notice shall be cross-indexed in accordance with G.S. 1-117, in all of the following cases:

(1) Actions affecting title to real ~~property;~~property.

(2) Actions to foreclose any mortgage or deed of trust or to enforce any lien on real ~~property; and~~property.

(3) Actions in which any order of attachment is issued and real property is attached.

(4) Actions seeking injunctive relief under G.S. 113A-64.1 or G.S. 113A-65 regarding sedimentation and erosion control for any land-disturbing activity that is subject to the requirements of Article 4 of Chapter 113A of the General Statutes."

SECTION 2. This act becomes effective October 1, 2009, and applies to actions filed on or after that date.

SENATE BILL 586:
File Lis Pendens for Certain Erosion Actions

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Judiciary I	**Date:**	June 9, 2009
Introduced by:	Senator McKissick	**Prepared by:**	Jennifer Mundt
Analysis of:	First Edition		Legislative Analyst

SUMMARY: Senate Bill 586 would require the filing of a notice of pending litigation for injunctive relief regarding certain sedimentation and erosion control actions.

[As introduced, this bill was identical to H789, as introduced by Reps. Hall, Luebke, Michaux, Wilkins, which is currently in Senate Judiciary I.]

CURRENT LAW: A notice of lis pendens is a notice filed for the purpose of warning all persons that the title to certain property is in litigation, and serves as notice that a purchaser is in danger of being bound by an adverse judgment. Currently, under North Carolina law, a notice of lis pendens may be filed in the following actions:

- Actions affecting title to real property.
- Actions to foreclose any mortgage or deed of trust or to enforce any lien on real property.
- Actions in which any order of attachment is issued and real property is attached.

The notice of lis pendens is to contain the name of the court in which the action has been commenced or is pending; the names of the parties to the action; the nature and purpose of the action; and a description of the property to be affected thereby. The notice may be filed at or any time after the commencement of an action; at or any time after real property has been attached; or at or any time after the filing of an answer or other pleading in which the pleading party states an affirmative claim for relief falling within the actions in which a notice of lis pendens may be filed.

The notice of lis pendens is to be filed with the clerk of superior court of each county in which any part of the real property is located in order to be effective against bona fide purchasers or lien creditors with respect to that real property. Every notice filed is to be cross-indexed in a record called the "Record of Lis Pendens." The notice of lis pendens is constructive notice to a purchaser or incumbrancer of the affected property and each are bound by the proceedings taken after the cross-indexing to the same extent as if the purchaser or incumbrancer were a party to the proceedings.

The notice of lis pendens is effective only if the notice of summons is served, and may be cancelled by the court in which the action was filed.

BILL ANALYSIS: Senate Bill 586 would also require the filing of a notice of lis pendens for an action seeking injunctive relief under G.S. 113A-64.1 (Restoration of areas affected by failure to comply) or G.S. 113A-65 (Injunctive relief) regarding sedimentation and erosion control for any land disturbing activity subject to the Sedimentation Pollution Control Act of 1973 (Article 4 of Chapter 113A of the General Statutes). For purposes of this Article 'land disturbing activity' is defined to mean "any use of the land by any person in residential, industrial, educational, institutional or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation."

EFFECTIVE DATE: This act becomes effective October 1, 2009, and applies to actions filed on or after that date.

R. Erika Churchill, counsel to Senate Judiciary I, substantially contributed to this summary.

S586-SMTA-60(e1) v1

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

SB 586 A BILL TO BE ENTITLED AN ACT TO REQUIRE THE FILING OF NOTICE OF PENDING LITIGATION FOR ACTIONS SEEKING INJUNCTIVE RELIEF REGARDING SEDIMENTATION AND EROSION CONTROL FOR ANY LAND-DISTURBING ACTIVITY THAT IS SUBJECT TO THE REQUIREMENTS OF ARTICLE 4 OF CHAPTER 113A OF THE GENERAL STATUTES.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on JUDICIARY I.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ The bill/resolution is re-referred to the Committee on _____.

SENATE BILL 1018
State and Local Government Committee Substitute Adopted 5/12/09

Short Title: Ban Certain Single-Use Bags. (Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO REDUCE PLASTIC AND NONRECYCLED PAPER BAG USE ON NORTH CAROLINA'S OUTER BANKS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 2F. Plastic Bag Management.

"**§ 130A-309.100. Findings.**

The General Assembly makes the following findings:

(1) Distribution of plastic bags by retailers to consumers for use in carrying, transporting, or storing purchased goods has a detrimental effect on the environment of the State.

(2) Discarded plastic bags contribute to overburdened landfills, threaten wildlife and marine life, degrade the beaches and other natural landscapes of North Carolina's coast, and, in many cases, require consumption of oil and natural gas during the manufacturing process.

(3) It is in the best interest of the citizens of this State to gradually reduce the distribution and use of plastic bags.

(4) Environmental degradation is especially burdensome in counties with barrier islands where soundside and ocean pollution are more significant, where removing refuse from such isolated places is more difficult and expensive, where such refuse deters tourism, and where the presence of a National Wildlife Refuge or National Seashore shows that the federal government places special value on protecting the natural environment in that vicinity.

(5) The barrier islands are most relevant in that they are where sea turtles come to nest. North Carolina has some of the most important sea turtle nesting areas on the East Coast, due to the proximity of the islands to the Gulf Stream. Plastic bag debris can be harmful to sea turtles and other land and marine life. The waters adjacent to the barrier islands, because they serve as habitat for the turtles, are particularly sensitive to waterborne debris pollution.

(6) Inhabitated barrier islands are visited by a high volume of tourists and therefore experience a high consumption of bags relative to their permanent population due to large numbers of purchases from restaurants, groceries, beach shops, and other retailers by the itinerant tourist population.

(7) Barrier islands are small and narrow, and therefore the comparative impact of plastic bags on the barrier islands is high.

"**§ 130A-309.101. Definitions.**

As used in this Part, the following definitions apply:

(1) Plastic bag. – A carryout bag that is less than 2.25 mils in thickness and composed primarily of thermoplastic synthetic polymeric material, which is provided by a store to a customer at the point of sale and incidental to the purchase of other goods.

(2) Recycled paper bag. – A paper bag that meets all of the following requirements:

a. The bag is manufactured from one hundred percent (100%) postconsumer recycled content.

b. The bag displays the words "made from recycled material" and "recyclable."

(3) Retail chain. – Five or more stores located within the State that are engaged in the same general field of business and (i) conduct business under the same business name or (ii) operate under common ownership or management or pursuant to a franchise agreement with the same franchisor.

(4) Retailer. – A person who offers goods for sale in this State to consumers and who provides a single-use plastic bag to the consumer to carry or transport the goods and (i) has more than 5,000 square feet of retail or wholesale space or (ii) is one of a retail chain.

(5) Reusable bag. – A durable plastic bag with handles that is at least 2.25 mils thick and is specifically designed and manufactured for multiple reuse or a bag made of cloth or other machine washable fabric with handles.

"**§ 130A-309.102. Certain plastic bags banned.**

No retailer shall provide customers with plastic bags unless the bag is a reusable bag, or the bag is used solely to hold sales to an individual customer of otherwise unpackaged portions of the following items:

(1) Fresh fish or fresh fish products.

(2) Fresh meat or fresh meat products.

(3) Fresh poultry or fresh poultry products.

(4) Fresh produce.

"**§ 130A-309.103. Substitution of paper bags restricted.**

A retailer subject to G.S. 130A-309.102 may substitute paper bags for the plastic bags banned by that section, but only if all of the following conditions are met:

(1) The paper bag is a recycled paper bag.

(2) The retailer offers a refund equal to the cost to the retailer of providing an equivalent number of recycled paper bags to any customer who uses the customer's own reusable bags instead of the bags provided by the retailer.

"**§ 130A-309.104. Required signage.**

A retailer subject to G.S. 130A-309.102 shall display a sign in a location viewable by customers containing the following notice: "[county name] County discourages the use of single-use plastic and paper bags to protect our environment from excess litter and greenhouse gases. We would appreciate our customers using reusable bags, but if you are not able to, a 100% recycled paper bag will be furnished for your use." The name of the county where the retailer displaying the sign is located should be substituted for "[county name]" in the language set forth in this section.

"**§ 130A-309.105. Applicability.**

This act applies only in a county that:

(1) Has a barrier island with permanent inhabitation separated from the mainland by a sound.

(2) Contains either a National Wildlife Refuge or a portion of a National Seashore."

SECTION 2. G.S. 130A-22 reads as rewritten:

"**§ 130A-22. Administrative penalties.**

(a) The Secretary of Environment and Natural Resources may impose an administrative penalty on a person who violates Article 9 of this Chapter, rules adopted by the Commission pursuant to Article 9, or any term or condition of a permit or order issued under Article 9. Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed fifteen thousand dollars ($15,000) per day in the case of a violation involving nonhazardous waste. The penalty shall not exceed thirty-two thousand five hundred dollars ($32,500) per day in the case of a first violation involving hazardous waste as defined in G.S. 130A-290 or involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical waste entering waters or lands of the State; and shall not exceed fifty thousand dollars ($50,000) per day for a second or further violation involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical waste entering waters or lands of the State. The penalty shall not exceed thirty-two thousand five hundred dollars ($32,500) per day for a violation involving a voluntary remedial action implemented pursuant to G.S. 130A-310.9(c) or a violation of the rules adopted pursuant to G.S. 130A-310.12(b). The penalty shall not exceed one hundred dollars ($100.00) for a first violation; two hundred dollars ($200.00) for a second violation within any 12-month period; and five hundred dollars ($500.00) for each additional violation within any 12-month period for a violation of the ban on certain plastic bags set forth in G.S. 130A-309.102. If a person fails to pay a civil penalty within 60 days after the final agency decision or court order has been served on the violator, the Secretary of Environment and Natural Resources shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment. Such civil actions must be filed within three years of the date the final agency decision or court order was served on the violator.

...."

SECTION 3. This act becomes effective September 1, 2009, and applies to retail sales made on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 1018
Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/12/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1018-PCS55428-MH-9

Short Title: Ban Certain Single-Use Bags. (Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO REDUCE PLASTIC AND NONRECYCLED PAPER BAG USE ON NORTH CAROLINA'S OUTER BANKS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 2G. Plastic Bag Management.

"**§ 130A-309.120. Findings.**

The General Assembly makes the following findings:

(1) Distribution of plastic bags by retailers to consumers for use in carrying, transporting, or storing purchased goods has a detrimental effect on the environment of the State.

(2) Discarded plastic bags contribute to overburdened landfills, threaten wildlife and marine life, degrade the beaches and other natural landscapes of North Carolina's coast, and, in many cases, require consumption of oil and natural gas during the manufacturing process.

(3) It is in the best interest of the citizens of this State to gradually reduce the distribution and use of plastic bags.

(4) Environmental degradation is especially burdensome in counties with barrier islands where soundside and ocean pollution are more significant, where removing refuse from such isolated places is more difficult and expensive, where such refuse deters tourism, and where the presence of a National Wildlife Refuge or National Seashore shows that the federal government places special value on protecting the natural environment in that vicinity.

(5) The barrier islands are most relevant in that they are where sea turtles come to nest. North Carolina has some of the most important sea turtle nesting areas on the East Coast, due to the proximity of the islands to the Gulf Stream. Plastic bag debris can be harmful to sea turtles and other land and marine life. The waters adjacent to the barrier islands, because they serve as habitat for the turtles, are particularly sensitive to waterborne debris pollution.

(6) Inhabitated barrier islands are visited by a high volume of tourists and therefore experience a high consumption of bags relative to their permanent

population due to large numbers of purchases from restaurants, groceries, beach shops, and other retailers by the itinerant tourist population.

(7) Barrier islands are small and narrow, and therefore the comparative impact of plastic bags on the barrier islands is high.

"**§ 130A-309.121. Definitions.**

As used in this Part, the following definitions apply:

(1) Plastic bag. – A carryout bag composed primarily of thermoplastic synthetic polymeric material, which is provided by a store to a customer at the point of sale and incidental to the purchase of other goods.

(2) Prepared foods retailer. – A retailer primarily engaged in the business of selling prepared foods, as that term is defined in G.S. 105-164.3, to consumers.

(3) Recycled paper bag. – A paper bag that meets all of the following requirements:

a. The bag is manufactured from one hundred percent (100%) recycled content, including postconsumer content, postindustrial content, or a mix of postconsumer and postindustrial content.

b. The bag displays the words "made from recycled material" and "recyclable."

(4) Retail chain. – Five or more stores located within the State that are engaged in the same general field of business and (i) conduct business under the same business name or (ii) operate under common ownership or management or pursuant to a franchise agreement with the same franchisor.

(5) Retailer. – A person who offers goods for sale in this State to consumers and who provides a single-use plastic bag to the consumer to carry or transport the goods and (i) has more than 5,000 square feet of retail or wholesale space or (ii) is one of a retail chain.

(6) Reusable bag. – A durable plastic bag with handles that is at least 2.25 mils thick and is specifically designed and manufactured for multiple reuse or a bag made of cloth or other machine washable fabric with handles.

"**§ 130A-309.122. Certain plastic bags banned.**

No retailer shall provide customers with plastic bags unless the bag is a reusable bag, or the bag is used solely to hold sales to an individual customer of otherwise unpackaged portions of the following items:

(1) Fresh fish or fresh fish products.

(2) Fresh meat or fresh meat products.

(3) Fresh poultry or fresh poultry products.

(4) Fresh produce.

"**§ 130A-309.123. Substitution of paper bags restricted.**

(a) A retailer subject to G.S. 130A-309.122 may substitute paper bags for the plastic bags banned by that section, but only if all of the following conditions are met:

(1) The paper bag is a recycled paper bag.

(2) The retailer offers a refund to any customer who uses the customer's own reusable bags instead of the bags provided by the retailer. The refund shall equal the cost to the retailer of providing a recycled paper bag, multiplied by the number of reusable bags filled with the goods purchased by the customer.

(b) Nothing in this Part shall prevent a retailer from providing customers with reused packaging materials originally used for goods received from the retailer's wholesalers or suppliers.

(c) Notwithstanding subsection (a) of this section, a prepared foods retailer may package prepared foods in a recycled paper bag, regardless of the availability of a reusable bag, in order to comply with food sanitation or handling standards or best practices.

"**§ 130A-309.124. Required signage.**

A retailer subject to G.S. 130A-309.122 other than a prepared foods retailer shall display a sign in a location viewable by customers containing the following notice: "[county name] County discourages the use of single-use plastic and paper bags to protect our environment from excess litter and greenhouse gases. We would appreciate our customers using reusable bags, but if you are not able to, a 100% recycled paper bag will be furnished for your use." The name of the county where the retailer displaying the sign is located should be substituted for "[county name]" in the language set forth in this section.

"**§ 130A-309.125. Applicability.**

(a) This Part applies only in a county which includes a barrier island or barrier peninsula, in which the barrier island or peninsula meets both of the following conditions:

(1) It has permanent inhabitation of 200 or more residents and is separated from the North Carolina mainland by a sound.

(2) It contains either a National Wildlife Refuge or a portion of a National Seashore.

(b) Within any county covered by subsection (a) of this section, this Part applies only to an island or peninsula that both:

(1) Is bounded on the east by the Atlantic Ocean.

(2) Is bounded on the west by a coastal sound."

SECTION 2. G.S. 130A-22 reads as rewritten:

"**§ 130A-22. Administrative penalties.**

(a) The Secretary of Environment and Natural Resources may impose an administrative penalty on a person who violates Article 9 of this Chapter, rules adopted by the Commission pursuant to Article 9, or any term or condition of a permit or order issued under Article 9. Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed fifteen thousand dollars ($15,000) per day in the case of a violation involving nonhazardous waste. The penalty shall not exceed thirty-two thousand five hundred dollars ($32,500) per day in the case of a first violation involving hazardous waste as defined in G.S. 130A-290 or involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical waste entering waters or lands of the State; and shall not exceed fifty thousand dollars ($50,000) per day for a second or further violation involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical waste entering waters or lands of the State. The penalty shall not exceed thirty-two thousand five hundred dollars ($32,500) per day for a violation involving a voluntary remedial action implemented pursuant to G.S. 130A-310.9(c) or a violation of the rules adopted pursuant to G.S. 130A-310.12(b). The penalty shall not exceed one hundred dollars ($100.00) for a first violation; two hundred dollars ($200.00) for a second violation within any 12-month period; and five hundred dollars ($500.00) for each additional violation within any 12-month period for any violation of Part 2G of Article 9 of this Chapter. If a person fails to pay a civil penalty within 60 days after the final agency decision or court order has been served on the violator, the Secretary of Environment and Natural Resources shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment. Such civil actions must be filed within three years of the date the final agency decision or court order was served on the violator.

...."

SECTION 3. This act becomes effective September 1, 2009, and applies to retail sales made on or after that date.

SENATE BILL 1018:
Ban Certain Single-Use Bags

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Commerce, Small Business, and Entrepreneurship	**Date:**	June 9, 2009
Introduced by:	Sen. Stein	**Prepared by:**	Jennifer McGinnis Committee Counsel
Analysis of:	PCS to Second Edition S1018-PCS55428-MH-9		

SUMMARY: ***The Proposed Committee Substitute (PCS) to the Second Edition of Senate Bill 1018 would prohibit retailers from providing customers with plastic bags unless the bag is reusable or is used solely to hold sales of otherwise unpacked portions or fresh (1) fish or fish products,(2) meat or meat products, (3) poultry or poultry products, or (4) produce. Paper bags may be substituted for plastic bags if it is a recycled paper bag and the retailer offers a refund to any customer who uses their own reusable bag. Penalties for violations of the law would be $100 for a first violation, $200 for a second violation within any 12 month period, and $500 for subsequent violations within any 12 month period; violations would also be punishable as a Class 1 misdemeanor.***

The PCS would be applicable only to islands or peninsulas bounded on the east by the Atlantic Ocean and on the west by a coastal sound, which are within counties that have a barrier island or barrier peninsula that both: (i) has permanent inhabitation and is separated from the mainland by a sound; and (2) contains either a National Wildlife Refuge or a portion of a National Seashore. (Dare, Currituck and Hyde Counties.)

[As introduced, this bill was identical to H810, as introduced by Reps. Harrison, Martin, which is currently in House Environment and Natural Resources, if favorable, Commerce, Small Business, and Entrepreneurship.]

BILL ANALYSIS:

Section 1 of the PCS creates a new Part 2G, Plastic Bag Management, in Article 9 of Chapter 130A of the General Statutes dealing with Solid Waste Management.

- New **G.S. 130A-309.120** sets forth findings by the General Assembly.
- New **G.S. 130A-309.121** sets forth definitions for the new Part 2G.
- New **G.S. 130A-309.122** bans the use of plastic bags unless the bag is used solely to hold sales of otherwise unpacked portions of fresh (1) fish or fish products, (2) meat or meat products, (3) poultry or poultry products, or (4) produce.
- New **G.S. 130A-309.123** allows the substitution of paper bags in lieu of banned plastic bags if (i) the bag is a recycled paper bag (manufactured from 100% recycled content (post-consumer, post-industrial, or a mix thereof)) and (ii) the retailer offers a refund to any customer using their own reusable bag in the amount of the cost to the retailer of providing a recycled paper bag, multiplied by the number of reusable bags filled with good purchased by the customer. Retailers would also be allowed to provide customers reused packaging materials originally used for goods received from the retailer's wholesalers or suppliers.
- New **G.S. 130A-309.124** requires a retailer subject to the act, other than a prepared foods retailer, to post a sign stating that "_____ County discourages the use of single use plastic bags and paper bags

to protect our environment from excess litter and greenhouse gases. We would appreciate our customers using reusable bags, but if you are not able to, a 100% recycled paper bag will be furnished for your use."

- New **G.S. 130A-309.125** limits the application of Part 2G to islands or peninsulas bounded on the east by the Atlantic Ocean and on the west by a coastal sound, which are within counties that have a barrier island or barrier peninsula that both: (i) has permanent inhabitation of 200 or more residents and is separated from the mainland by a sound; and (2) contains either a National Wildlife Refuge or a portion of a National Seashore. (Dare, Currituck and Hyde Counties.)

Section 2 of the PCS amends G.S. 130A-22(a) (which provides administrative penalties for violations of Article 9 (Solid Waste Management) of Chapter 130A (Public Health)) to authorize penalties for violations of the new Part 2G of $100 for a first violation, $200 for a second violation within any 12 month period, and $500 for subsequent violations within any 12 month period. Violations of the new Part would also be punishable as a Class 1 misdemeanor.[1]

EFFECTIVE DATE: The PCS would become effective September 1, 2009 and apply to retail sales made on or after that date.

Barbara Riley, Committee Counsel to Senate State and Local Government, substantially contributed to this summary.

S1018-SMRI-61(CSMH-9) v3

[1] See GS 130A-22 (Administrative Penalties) and GS 130A-25(a) (Misdemeanor)/GS 14-3(a) (Punishment of Misdemeanors...). The range of punishment for a Class 1 misdemeanor, assuming no prior convictions, is 1-45 days community punishment.

Good afternoon and thank you for providing me the opportunity to address this committee.

My name is Mark Daniels, Vice President of Marketing and Environmental Affairs for Hilex Poly and I am here to represent our 1200 associates and over 5000 family members. Hilex is the United States largest manufacturer and recycler of plastic bags with 8 facilities located throughout the nation. Our headquarters is located in your neighboring state, South Carolina.

It is my pleasure to address the committee in an effort to educate and inform, for the public record, some of the inaccurate "findings" offered to advance this onerous bill.

Finding (1) & (2) refers to the detrimental effects of the distribution, transportation and storage of plastic bags and contributes to overburdened landfills. In fact, the alternate of paper bags is a poor environmental choice for the following reasons:

- Paper bags consume more energy to ship as they have a 7 to 1 ratio in volume, shipping and energy consumption to plastic bags.
- Plastic bags consume 82% less energy to make than paper bags.
- Plastic bags generate 80% less waste than paper bags.
- Paper bags use 30 times the amount of fresh water to manufacture as plastic bags do.
- It takes 91% less energy to recycle a pound of plastic than to recycle a pound of paper
- By weight plastic carry-out bags account for less than 1% of landfill space
- 60% of carry out plastic bags are reused and 12% are recycled for a total of 72%.

  Plastic bags are reused as trash can liners, pet waste containment, beach bags, laundry bags, lunch bags and many other convenient household uses.

- By promoting recycling through educational initiatives, litter can be alleviated yet this bill does not address recycling in any manner.

The simple fact is that this legislation will multiply the perceived "detrimental" effect of carry out bags by a factor of 7 times.

Finding (3) calls for the reduction of plastic bags – We support this through promotion of proper bag use to reduce consumption by offering educational programs on proper bag packing to increase the items per bag and to promote recycling through posters, videos and individualized training at the retailer's properties.

- Hilex alone has distributed in excess of 30,000 recycling containers and educational materials for the collection and recycling of used plastic bags.

Finding (5) - The barrier islands are most relevant in that they are where sea turtles come to nest . . .

- Sea turtles should be protected from the plastic debris that kills them, but that's not plastic bags.
- Both The Sea Turtle Rescue and Rehabilitation Center in Topsail Island, North Carolina references "discarded balloons drift into the water and are mistaken for food by sea turtles and other marine animals." Since 1996, as far back as this site goes, there is not a mention of plastic bags endangering sea turtles.
- A study by Oceana found that nearly 3,000 endangered Pacific loggerhead sea turtles were found dead along a 27-mile stretch of Mexico's coast during a five-year period from 2003 to 2007.
- The vast majority of deaths to sea mammals are due to fishing, including discarded fishing lines and nets that cause entanglement.

During same period, Oceana reported that not a single Sea Turtle was killed by a plastic bag.

SB 1018 calls for banning plastic bags for a retailer that has five or more stores located in the State and operates in stores >5000 square feet.

- Targeting the bill's enforcement to consumers who frequent larger stores will accelerate the problems under this bill and significant amounts of waste will be added to the environment.

SB 1018 allows for the distribution of 100% post consumer paper bags to be used.

- To my knowledge, there is only one small paper bag manufacturing facility in Mexico that claims they can produce 100% post consumer paper bags. This issue needs further study to vet the truth about these claims. I recommend discussing with US paper bag producers to validate if 100% post consumer paper bags are commercially available.

SB 1018 encourages the sale and use of reusable bags.

- If a consumer desires to employ a reusable bag, we support that, but we also support providing a consumer a choice of paper, plastic or reusable bags.
- As a result of alarming findings documenting significant health safety concerns involving reusable bags for food, we would encourage a protocol for their usage. A recent Canadian study found unacceptably high levels of bacteria, yeast, mold and coliform counts in reusable bags.
- As currently written, this bill ignores the documented health concerns of reuseable bags for food and groceries. Without establishing appropriate health protections this bill may but putting your residents and visitors at risk for food poisoning by the inherent cross contamination concerns of reusable bags.

In conclusion, the findings in this bill are not facts – they are opinions. Unfortunately this type activism often leads to hastily crafted legislation with much greater environmental harm. That is the case here.

You may be thinking that this bill only considers three small counties on the outer banks of North Carolina. The fact of the matter is if you pass this bill, you will be setting precedent and believe me, the activist community will spread this like wild fire.

This legislation is also out of step with what many progressive communities are doing around the country. When presented with factual data, states and cities such as California, Colorado, Virginia, Philadelphia, Dallas, Austin, Los Angeles, Boston, Phoenix, Annapolis have chosen recycling and consumer education over mandates, bans and taxes.

I would like the committee to seriously consider the negative effects of this bill and its impact if passed based on inaccurate data provided by reusable bag brokers that have only one interest in mind – the destruction of USA manufacturing based jobs so they can profit by importing bags from China.

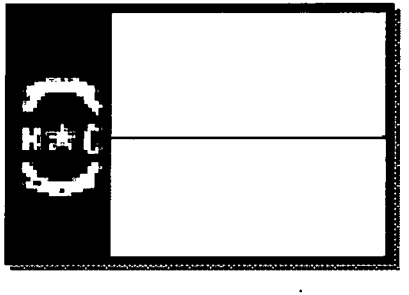
This concludes my testimony.

Thank you.

General Assembly
of North Carolina

SENATE BILL 1018

Ban Certain Single Use Bags



SB 1018 FINDINGS

(1) *Distribution of plastic bags by retailers to consumers for use in carrying , transporting, or storing purchased goods has a detrimental effect on the environment of the State*

As the following slides indicates, paper bags are an alternate carry-out product that is significantly more harmful to the environment than the plastic bag.

- Paper bags consume more energy to ship as they have a 7 to 1 ratio in volume, shipping and energy consumption to plastic bags
- Plastic bags consume 82% less energy to make than paper bags.
- Plastic bags generate 80% less waste than paper bags.
- Paper bags use 30 times the amount of fresh water to manufacture as do plastic bags
- It takes 91% less energy to recycle a pound of plastic than to recycle a pound of paper

- The simple fact is that this legislation will multiple the perceived "detrimental" effect by a factor of 7 times.

spi the plastics industry trade association

Which Bag?

Height of 1000 bags: 46" 4"

Weight of 1000 bags: → 140 lbs. → 16 lbs.

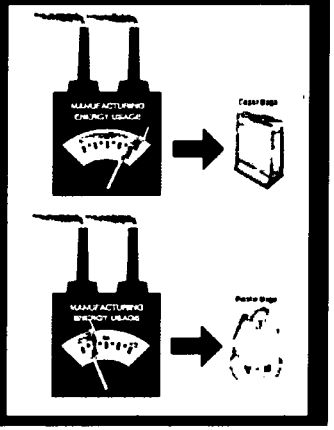
Shipping and energy comparison:

www.plasticsindustry.org

spi the plastics industry trade association

RIGHT for the Environment

Plastic bags consume only 18% as much energy as needed to make paper bags.

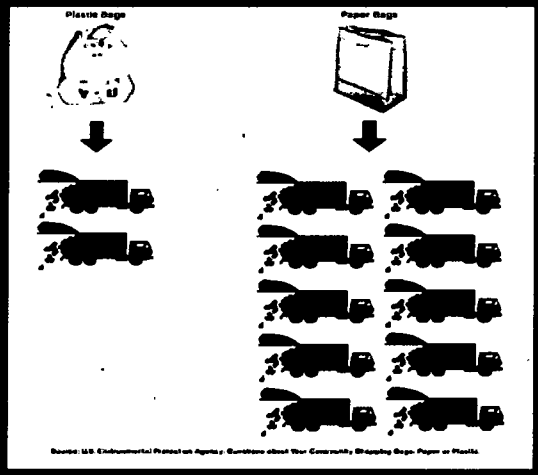


Peer Reviewed Published data Franklin Associates, David Cornell et al

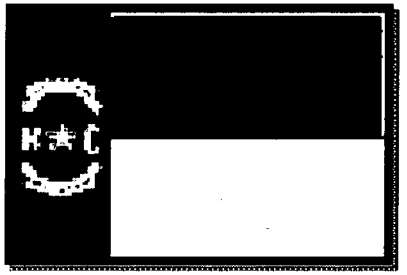
www plasticsindustry org

spi the plastics industry trade association

Plastic bags generate 80% less waste than paper bags

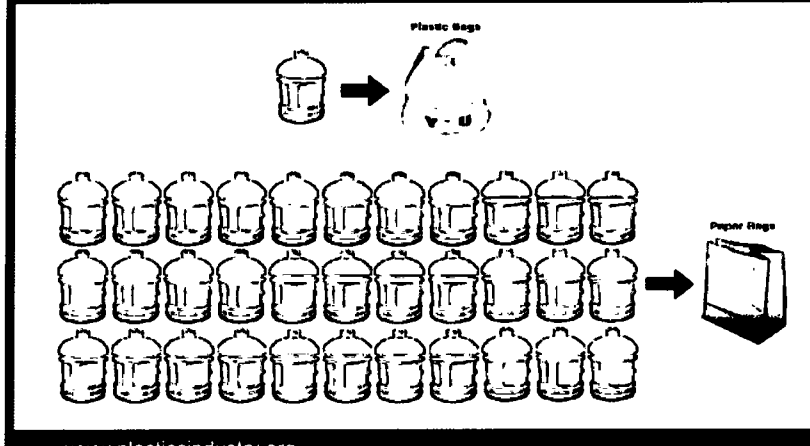


www.plasticsindustry org



spi the plastics industry trade association

Plastic bags use less than 3% of the fresh water necessary to make paper bags

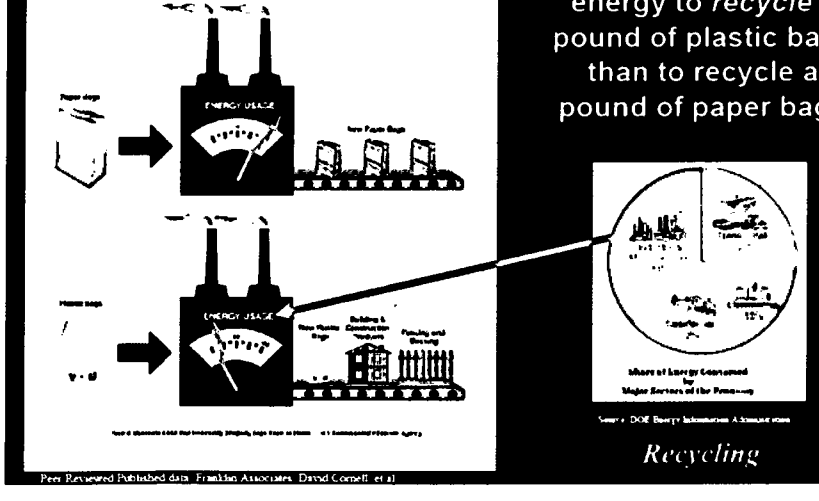


www.plasticsindustry.org

Peer Reviewed Published data Franklin Associates, David Cornell, et al

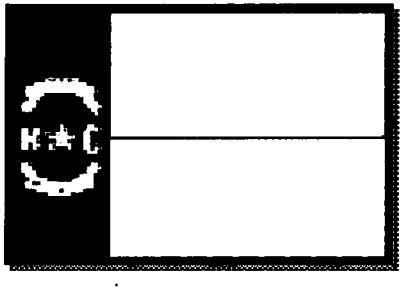
spi the plastics industry trade association

It takes 91% *less* energy to *recycle* a pound of plastic bags than to recycle a pound of paper bags



Recycling

Peer Reviewed Published data Franklin Associates, David Cornell, et al



SB 1018 FINDINGS

(2) Discarded plastic bags contribute to overburdened landfills:

- By weight plastic carry-out bags account for less than 1% of landfill space
- 60% of carry out plastic bags are reused and 12% are recycled for a total of 72%
  Reuses are trash can liners, pet waste containment, beach bags, laundry bags, lunch bags and many other convenient household uses.
- By promoting recycling through educational initiatives, litter can be alleviated
- SB1018 does not address recycling of plastic bags in any manner

Bag 2 Bag

HILEX

SB 1018 FINDINGS

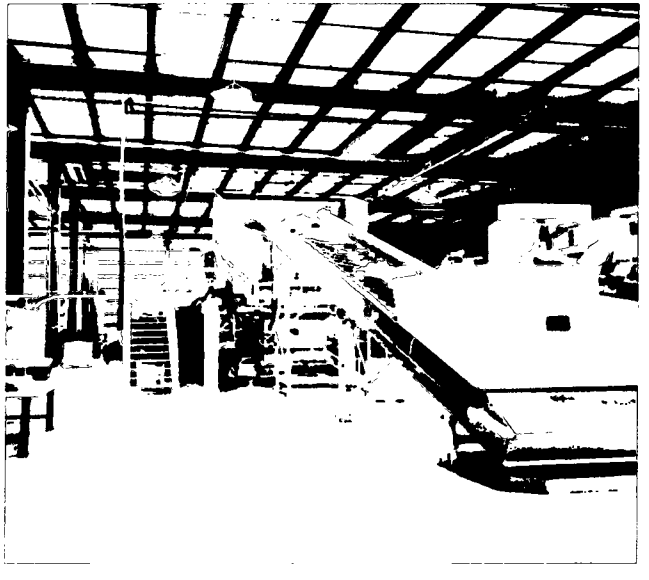
(3) *It is in the best interest of the citizens of this State to gradually reduce the distribution and use of plastic bags:*

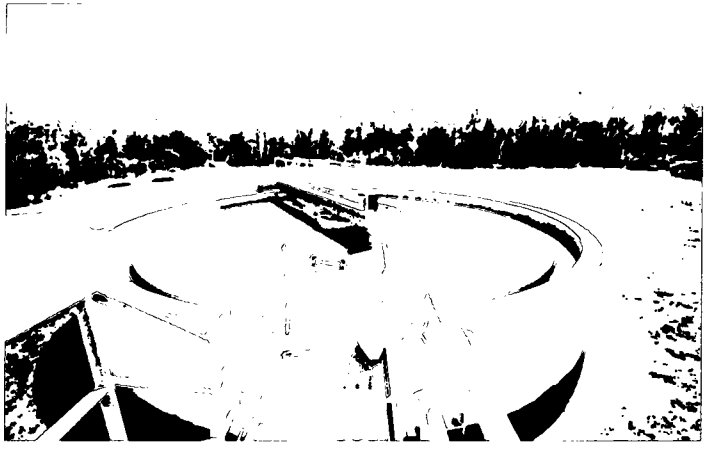
- It may seem counter intuitive, but my company promotes proper bag usage to reduce consumption by educational programs on proper bag packing to increase the items per bag and promote recycling through posters, videos and individualized training at the retailers stores,

- Hilex alone has distributed in excess of 30,000 recycling containers for the collection and recycling of used plastic bags. It is estimated that there are nearly 100,000 plastic bag collection containers market wide in the United States

- Through posters and education, we encourage consumers to bring back used plastic bags for recycling. That stream has enabled us to continually increase recycled content in our bags. We would be more than pleased to set up additional recycling programs in partnership with retailers in North Carolina.

Hilex Poly Plastic Bag Recycling Center





SB 1018 FINDINGS

(5) The barrier islands are most relevant in that they are where sea turtles come to nest . . .

- Sea turtles should be protected from the plastic debris that kills them, but that's not plastic bags.
- Dead Sea turtles have been reported containing everything from pieces of plastic milk jugs to bits of balloons, items likely ingested when mistaken for jellyfish.
- The Sea Turtle Rescue and Rehabilitation Center in Topsail Island, North Carolina references "Discarded balloons drift into the water and are mistaken for food by sea turtles and other marine animals." Since 1996, as far back as this site goes, there is not a mention of plastic bags endangering sea turtles.
- The vast majority of deaths to sea mammals are due to fishing, including discarded fishing lines and nets that cause entanglement.

SB 1018 FINDINGS

- A study by Oceana found that nearly 3,000 endangered Pacific loggerhead sea turtles were found dead along a 27-mile stretch of Baja California, Mexico's coast during a five-year period from 2003 to 2007.

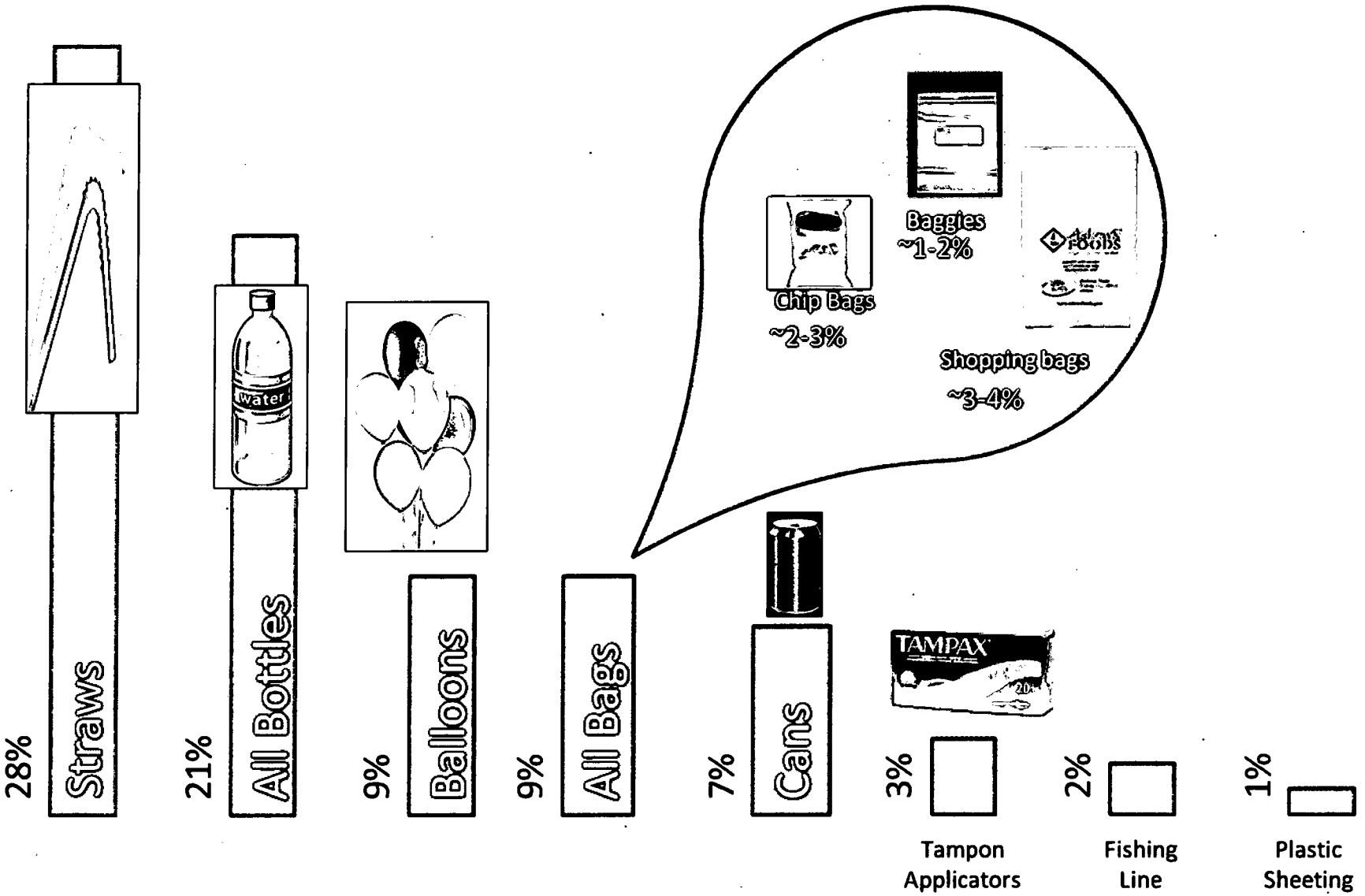
- During same period, Oceana reported that not a single Sea Turtle was killed by a plastic bag.

- Oceana stated that "the turtle deaths are as a result of fishing , when turtles get caught accidentally in fishing nets. Oceana is working to reduce the number of sea turtles caught each year in commercial fisheries, and obtain better information on how fisheries impact sea turtle populations"

The Karen Beasley

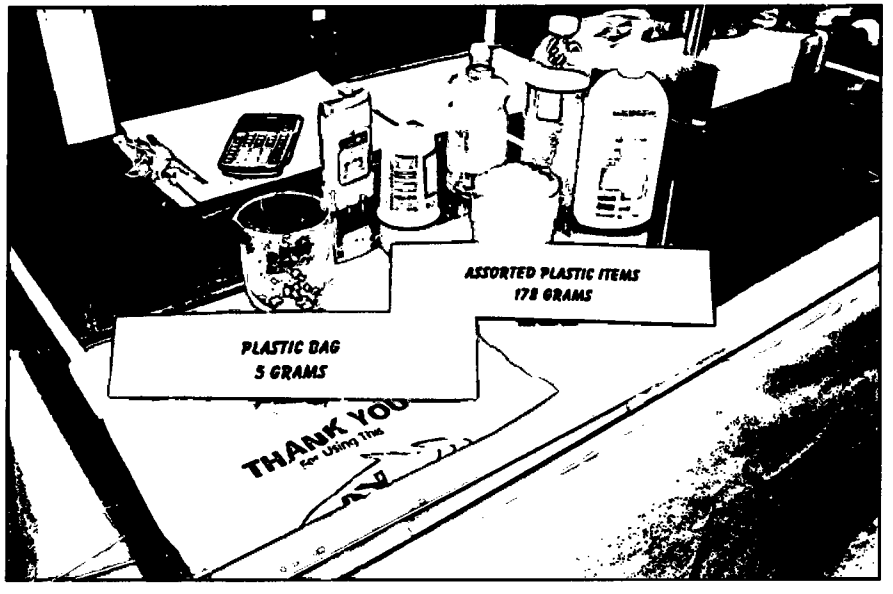
Sea Turtle Rescue and Rehabilitation Center

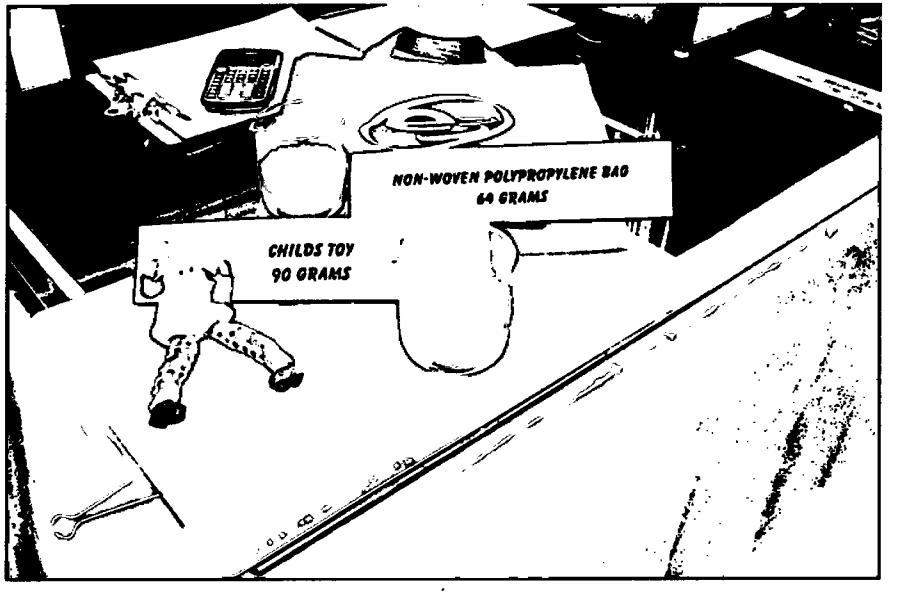
Topsail Island, North Carolina, USA



What is really on our beaches and oceans

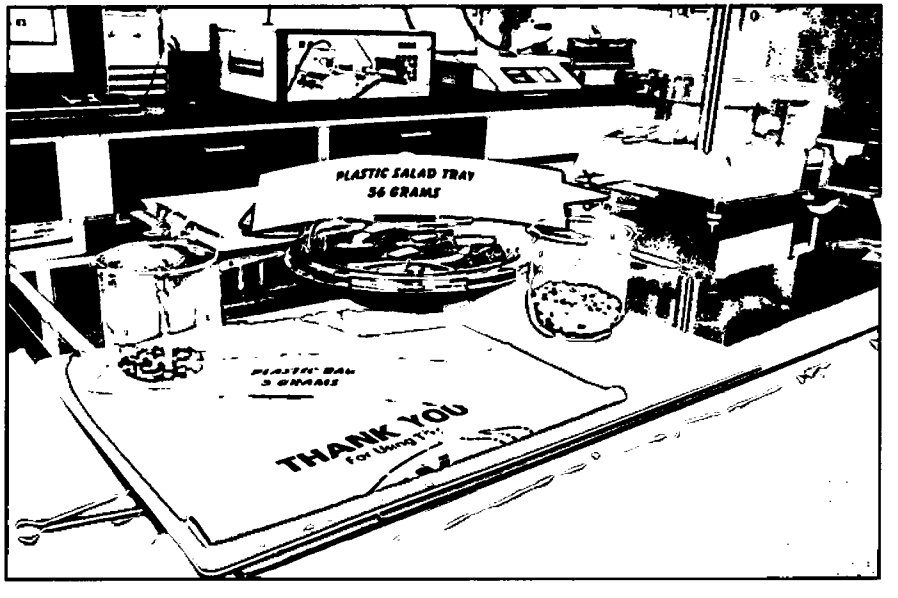
This is according to the EPA's 2008 *National Marine Debris Monitoring Program*





Is it the bag – or what is in the bag?

- A sanitary, multi-use plastic bag weighs 5 grams
- Typical empty house hold plastic items - weigh 176 grams
- A child's toy – weighs 90 grams
- Salad container – weighs 56 grams



Commentary

- SB 1018 calls for banning plastic bags for a retailer that has five or more stores located in the State and operates in stores >5000 square feet.
  - Targeting the bill's enforcement to consumers who frequent larger stores will accelerate the problems under this bill. By forcing the use of paper bags, vast amounts of energy and water will be wasted, costs will rise, and significant amounts of waste will be added to the environment.
  - The grocery retail segment will have to re-design their entire front end to accommodate this onerous law at a cost of tens of thousands of dollars per store.
- SB 1018 allows for the distribution of 100% post consumer paper bags to be used.
  - There is very little manufacturing capacity available in the marketplace for 100% post consumer paper bags.

Commentary

- SB 1018 encourages the sale and use of reusable bags.

- If a consumer desires to employ a reusable bag, we support that – in fact we manufacture recycled reusable bags for consumers. We also support providing a consumer a choice of paper, plastic or reusable bags.

- As a result of alarming findings documenting significant health safety concerns involving reusable bags for food, we would encourage a protocol for their usage. A recent Canadian study found unacceptably high levels of bacteria, yeast, mold and coliform counts in reusable bags.

- As currently written, this bill ignores the documented health concerns of reusable bags for food and groceries. Without establishing appropriate health protections this bill may but putting your residents and visitors at risk for food poisoning by the inherent cross contamination concerns.

- Please also consider the export of USA manufacturing jobs to China. Hilex employs 1300 Americans supporting some 6000 family members.

Commentary

- In conclusion, the findings in this bill are not facts – they are opinions. The negative environmental activism surrounding the plastic bag is unprecedented and the NGO's involved in virally spreading these myths and untruths has been astounding. Unfortunately this activism often leads to hastily crafted legislation with much greater environmental harm. That is the case here. Nothing would make be happier if the hyper- environmental activist community would base their opinion in fact rather than parrot the myths provided on the web pages of brokers of reusable bags.

- You may be thinking that this bill only considers three small counties on the outer banks of North Carolina – Currituck, Hyde, & Dare Counties. The fact of the matter is if you pass this bill, you will be setting precedent and believe me, the activist community will spread this like wild fire.

Commentary

- This legislation is also out of step with what many progressive communities are doing around the country. When presented with factual data, states and cities such as California, Colorado, Virginia, Philadelphia, Dallas, Austin, Los Angeles, Boston, Phoenix, Annapolis have chosen recycling and consumer education over mandates, bans and taxes.
- As mentioned earlier, this bill has the potential to negatively affect all of our employees and their families and place a chilling halt to all our progressive measures to increase recycling and recycled content plastic bags.
- I would like the committee to seriously consider the negative effects of this bill and its impact if passed based on inaccurate data provided by reusable bag brokers that have only one interest in mind – the destruction of USA manufacturing based jobs so they can profit by importing bags from China.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒Committee Substitute for

SB 1018 A BILL TO BE ENTITLED AN ACT TO REDUCE PLASTIC AND NONRECYCLED PAPER BAG USE ON NORTH CAROLINA'S OUTER BANKS.

☒ With a favorable report as to the House committee substitute bill, unfavorable as to Senate Committee Substitute Bill and recommendation that the House committee substitute bill be re-referred to the Committee on COMMERCE, SMALL BUSINESS, AND ENTREPRENEURSHIP.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

House Pages

ENVIRONMENT & NAT'L RESOURCES
Name of Committee: _____ Date: JUNE 9, 2009

1. Name: Glenn Bailey Robert Nelson
   County: Ashe Carteret
   Sponsor: Tarkton Hackney
2. Name: Powell Eddins
   County: Wake
   Sponsor: Jennifer Weiss
3. Name: Deryk Danner
   County: Davie County
   Sponsor: Julia Howard
4. Name: Jazmine Maldonado Maldonado
   County: Forsyth County
   Sponsor: Larry Hilumba
5. Name: Carl Boner
   County: Anson
   Sponsor: Gibson

Sgt-At-Arms

1. Name: FRED HINES 4. TOM WILDER
2. Name: KEN BURROUGHS 5. ROBERT ROSSI
3. EARL COKER

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

June 9 , 2009

SPEAKERS: PLEASE SIGN IN BELOW

Name & Title	Representing (Agency/Company)	Bill #	Support/ Oppose
Rudy Underwood	American Chemistry Council Progressive Bag Distributors	SB1018	Oppose
MARK DANIELS VP MARKETING + ENVIRONMENTAL AFFAIRS	HILEX POLY CO	SB1018	OPPOSE
Jill McQuay	Superbag corporation	SB1018	oppose
Andy Ellen	NC Retail	SB1018	oppose
Drew Ball	Sierra Club		

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 9, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Betsy McCorkle	CCNC
Bill Crumpler	attorney
James Simon	DENR
[illegible]	NMRS
[illegible]	PBA
John Runkle	NC SAFE!
Kevin Davis	TNC
Andy Ellen	NCRWM
Elizabeth Dalton	NCRWM
Heather Barnett	Hunton & Williams
Scott Mouw	NC DENR

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 9, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Doug Howey	NEPCM
Dan Crawford	CCNC
Sean Burum	Sierra Club
Danielle Nathan	Sierra Club
Drew Ball	Sierra Club

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 9, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mark Johnson	N&O / Charlotte Observer
Al Hall	APP VOICES
ZACH PRITCHETT	CAA

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 9, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Kathy Everett-Perry	Durham County
[signature]	" "
FRANCIS M. NEVILS	DENR – DLR
Rudy Underwood	American Chemistry Council
[signature]	NCIC
Margaret Hartzell	Environment North Carolina
Elizabeth Watson	Environment North Carolina
Brian May	E.N.V. N.C.
Elizabeth Bise	DENR
Alexandra Embry	DENR
Beth Brownell	PPT's - staff

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

June 18, 2009

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Thursday, June 18, 2009, in room 643 of the Legislative Office Building. Representative Lucy T. Allen presided. Members present were: Representatives Gillespie, Harrison, Justice, Tarleton, and Underhill, Vice-Chairs; Representatives K. Alexander, Blackwood, Floyd, Gibson, Haire, Insko, Killian, Luebke, Martin, McComas, McElraft, Owens, Samuelson, Tucker, West, and Womble.

Representative Allen called the meeting to order at 12:01 p.m. She began by introducing the pages: Meredith Dinkins, Davie County (sponsored by Representative Howard); Morgan Stegall, Union County (sponsored by Representative Gibson); Anna Hamilton, Wake County (sponsored by Representative Weiss); Tisha Funderburk, Davie County (sponsored by Representative Howard); Ashleigh Curry, Gaston County (sponsored by Representative Burris-Floyd); and Kayla Fowler, Surry County (sponsored by Speaker Hackney). She then recognized the Sergeant-at-arms staff who were assisting with the meeting: Charles Williams, Rod Finger, James Worth, Robert Rossi, and Earl Coker.

The first item on the agenda was Senate Committee Substitute #2 for SB 755 – A BILL TO BE ENTITLED AN ACT TO PROMOTE THE USE OF COMPENSATORY MITIGATION BANKS FOR RIPARIAN BUFFER PROTECTION AND NUTRIENT OFFSET PAYMENTS AND TO MAKE CLARIFYING CHANGES TO THE STATUTES GOVERNING COMPENSATORY MITIGATION FOR WETLAND AND STREAM IMPACTS. Representative Gillespie made a motion that a proposed committee substitute be placed before the committee. This motion was unanimously approved. Representative Gibson was recognized to explain the bill as the PCS was being distributed. Jeff Hudson, Staff Attorney, was recognized to add his comments to Representative Gibson's remarks. There being no questions from committee members, Representative Allen acknowledged speakers, beginning with David Knight, Assistant Secretary for Natural Resources from the Department of Environment and Natural Resources. He explained the background of the program, including the reason for its creation. Representative McElraft questioned his comments about "stranded assets." Bill Gilmore also with the Department of Environment and Natural Resources addressed her queries. The second speaker was Steve Levitas representing Restoration Systems. He asked the committee to vote in favor of the bill, saying that any differences were small enough that they could easily be worked out through discourse with the bill's sponsors and could be addressed during short session in 2010. David Knight presented a copy of his remarks for committee members (copy attached). At this point, Representative Allen opened the floor for questions and comments from committee members. Representative Luebke questioned the possibility of this bill being turned into a study. The idea was discussed at length by committee members. Representative Tucker made a motion for a favorable report as to the House Committee Substitute Bill, unfavorable to the Senate Committee Bill #2, and recommendation that the House Committee Substitute be referred to the Committee on Finance. This motion passed without objection.

Next on the agenda was Senate Committee Substitute for HB 924 – A BILL TO BE ENTITLED AN ACT CONCERNING PUBLIC-PRIVATE REIMBURSEMENT AGREEMENTS FOR PARK INFRASTRUCTURE DEVELOPMENT BY MECKLENBURG COUNTY AND PUBLIC-PRIVATE REIMBURSEMENT AGREEMENTS FOR INFRASTRUCTURE DEVELOPMENT BY THE CITY OF CHARLOTTE. Representative Samuelson was recognized to explain the bill in the absence of the bill's primary sponsor, Representative Carney. She pointed out that the original bill had passed through the Environment and Natural Resources Committee and had been returned in the form of a Senate Committee Substitute for concurrence from the members. Representative Alexander made a motion recommending concurrence. This motion passed unanimously.

The third bill on the agenda was House Committee Substitute for SB 600 - A BILL TO BE ENTITLED AN ACT TO REQUIRE A DEMONSTRATION OF LACK OF PRUDENT AND FEASIBLE ALTERNATIVE IN ORDER FOR PUBLIC CONDEMNORS TO CONDEMN PROPERTY ENCUMBERED BY A CONSERVATION EASEMENT. As a proposed committee substitute was being distributed, Representative Samuelson, in the absence of Senator Clodfelter, was recognized to explain the bill. Representative Killian moved that the PCS be placed before the committee. This motion passed without objection. Jennifer McGinnis, Committee Counsel, assisted Representative Samuelson in explaining the changes in the language. In light of numerous questions and concerns about the language in the PCS, the bill was tabled, to be heard at the next committee meeting.

Because of time constraints, the meeting was adjourned at 12:45 p.m.

Respectfully submitted,

Lucy T. Allen
Representative Lucy T. Allen, Chair

Shara Graham
Shara Graham, Committee Assistant

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE MEETING

June18, 2009
12:00 NOON
Room 643 LOB

Representative Lucy T. Allen, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

SB 755 - Promote Mitigation Banks
Primary Sponsor: Sen. Clodfelter

Presentation: Biofuels Center of North Carolina - Steven Burke, President

HB 924 - Mecklenburg County/Reimbursement Agreements
Primary Sponsor: Rep. Carney

SB 600 - Condemnation of Conservation Easements
Primary Sponsor: Sen. Clodfelter

ADJOURNMENT

SENATE BILL 755

Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/5/09
Finance Committee Substitute Adopted 5/6/09

Short Title: Promote Mitigation Banks. (Public)

Sponsors:

Referred to:

March 24, 2009

A BILL TO BE ENTITLED

AN ACT TO PROMOTE THE USE OF COMPENSATORY MITIGATION BANKS FOR RIPARIAN BUFFER PROTECTION AND NUTRIENT OFFSET PAYMENTS AND TO MAKE CLARIFYING CHANGES TO THE STATUTES GOVERNING COMPENSATORY MITIGATION FOR WETLAND AND STREAM IMPACTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-214.11 reads as rewritten:

"**§ 143-214.11. Ecosystem Enhancement Program: compensatory mitigation.**

(a) Definition. – For purposes of this section, the term "compensatory mitigation" means the restoration, creation, enhancement, or preservation of ~~wetlands or other areas~~jurisdictional waters required as a condition of a ~~section 404~~ permit issued by the Department or by the United States Army Corps of Engineers. For purposes of this section, "jurisdictional waters" means wetlands, streams, or other waters of the State or of the United States.

(b) Department ~~of Environment and Natural Resources~~ to Coordinate Compensatory Mitigation. – All compensatory mitigation required by permits or authorizations issued by the Department or by the United States Army Corps of Engineers ~~under 33 U.S.C. § 1344~~ shall be coordinated by the Department consistent with the basinwide ~~plans for wetlands restoration~~restoration plans and rules developed by the Environmental Management Commission. All compensatory ~~wetlands~~ mitigation, whether performed by the Department or by permit applicants, shall be consistent with the basinwide restoration plans. All compensatory mitigation shall be consistent with rules adopted by the Commission for wetland and stream mitigation and for protection and maintenance of riparian buffers.

(c) Compensatory Mitigation Emphasis on Replacing Ecological Function Within Same River Basin. – The emphasis of compensatory mitigation is on replacing functions within the same river basin unless it is demonstrated that restoration of other areas would be more beneficial to the overall purposes of the Ecosystem Enhancement Program.

(d) Compensatory Mitigation Options Available to the North Carolina Department of ~~Transportation.~~Transportation, Units of Local Government, and Governmental Authorities. – The North Carolina Department of ~~Transportation~~ Transportation, units of local government, and governmental authorities may satisfy compensatory ~~wetlands~~ mitigation requirements by the following actions, if those actions are consistent with the basinwide restoration plans and also meet or exceed the requirements of the Department or of the United States Army Corps of ~~Engineers:~~Engineers, as applicable:

(1) Payment of a fee established by the ~~Department~~ Commission into the Ecosystem Restoration Fund established in G.S. 143-214.12.

(2) Donation of land to the Ecosystem Enhancement Program or to other public or private nonprofit conservation organizations as approved by the Department.

(3) Participation in a ~~private wetlands~~ compensatory mitigation ~~bank.~~bank that has been approved by the United States Army Corps of Engineers, provided that the Department or the United States Army Corps of Engineers, as applicable, approves the use of such bank for the required compensatory mitigation.

(4) Preparing and implementing a ~~wetlands restoration~~compensatory mitigation plan.

(d1) Compensatory Mitigation Options Available to Applicants Other than the North Carolina Department of ~~Transportation.~~Transportation, Units of Local Government, and Governmental Authorities. – An applicant other than the North Carolina Department of ~~Transportation~~ Transportation, a unit of local government, or a governmental authority may satisfy compensatory ~~wetlands~~ mitigation requirements by the following actions, if those actions meet or exceed the requirements of the United States Army Corps of Engineers:

(1) Participation in a ~~private wetlands~~ compensatory mitigation ~~bank.~~ bank if the Department or the United States Army Corps of Engineers, as applicable, approves the use of the bank for the required compensatory mitigation. This option is only available in a hydrologic area where there is at least one ~~private wetlands~~compensatory mitigation bank that has been ~~(i)~~ approved by the United States Army Corps of ~~Engineers and that has available mitigation credit or (ii) approved by the North Carolina Division of Water Quality for resources regulated under the Neuse and Tar-Pam rules and that has available mitigation credit.~~Engineers. For purposes of this subdivision, "hydrologic area" means the eight-digit Hydrologic Unit Code where the mitigation bank is located.

(2) Payment of a fee established by the ~~Department~~ Commission into the Ecosystem Restoration Fund established in G.S. 143-214.12. This option is only available to an applicant ~~if~~ who demonstrates that the option under subdivision (1) of this subsection is not ~~available as an option.~~available.

(3) Donation of land to the Ecosystem Enhancement Program or to other public or private nonprofit conservation organizations as approved by the Department.

(4) Preparing and implementing a ~~wetlands restoration~~compensatory mitigation plan.

(e) Payment Schedule. – A standardized schedule of ~~per-acre payment amounts~~compensatory mitigation payment amounts shall be established by the ~~Environmental Management~~ Commission. Compensatory mitigation payments shall be made by applicants to the Ecosystem Restoration Fund established in G.S. 143-214.12. The monetary payment shall be based on the ecological functions and values of wetlands and streams permitted to be lost and on the cost of restoring or creating wetlands and streams capable of performing the same or similar functions, including directly related costs of ~~wetlands~~ wetland and stream restoration planning, long-term monitoring, and maintenance of restored areas. Compensatory mitigation payments for wetlands shall be calculated on a per-acre basis. Compensatory mitigation payments for streams shall be calculated on a per-linear foot basis.

(f) Mitigation Banks. – State agencies and ~~private~~ mitigation ~~banking companies~~banks shall demonstrate that adequate, dedicated financial surety exists to provide for the perpetual land management and hydrological maintenance of lands acquired by the State as mitigation banks, or proposed to the State as privately operated and permitted mitigation banks.

(g) Payment for Taxes. – A State agency acquiring land to restore, enhance, preserve, or create wetlands must also pay a sum in lieu of ad valorem taxes lost by the county in accordance with G.S. 146-22.3."

SECTION 2. G.S. 143-214.20 reads as rewritten:

"**§ 143-214.20. Riparian Buffer Protection Program: Alternatives to maintaining riparian buffers; compensatory mitigation fees.**

(a) Compensatory Mitigation for Riparian Buffer Loss. – The Commission shall establish a program to provide alternatives for persons who would otherwise be required to maintain riparian buffers and who can demonstrate that they have attempted to avoid and minimize the loss of the riparian buffer and that there is no practical alternative to the loss of the buffer. This program is intended to allow these persons to perform compensatory mitigation in lieu of complying with laws and rules that require that riparian buffers be protected and maintained. ~~Alternatives shall include, but are not limited to:~~ All compensatory mitigation for riparian buffer loss shall be consistent with rules adopted by the Commission for protection and maintenance of riparian buffers.

(a1) Compensatory Mitigation Options Available to the North Carolina Department of Transportation, Units of Local Government, and Governmental Authorities. – The North Carolina Department of Transportation, units of local government, and governmental authorities may satisfy compensatory mitigation requirements by any of the following actions:

(1) Payment of a compensatory mitigation fee into the Riparian Buffer Restoration ~~Fund.~~Fund established in G.S. 143-214.21.

(2) Donation of real property or of an interest in real property to the Department, another State agency, a unit of local government, or a private nonprofit conservation organization if both the donee organization and the donated real property or interest in real property are approved by the Department. The Department may approve a donee organization only if the donee agrees to maintain the real property or interest in real property as a riparian buffer. The Department may approve a donation of real property or an interest in real property only if the real property or interest in real property either:

a. Is a riparian buffer that will provide protection of water quality that is equivalent to or greater than that provided by the riparian buffer that is lost in the same river basin as the riparian buffer that is ~~lost; or~~lost.

b. Will be used to restore, create, enhance, or maintain a riparian buffer that will provide protection of water quality that is equivalent to or greater than that provided by the riparian buffer that is lost in the same river basin as the riparian buffer that is lost.

(3) Restoration or enhancement of an existing riparian buffer that is not otherwise required to be protected, or creation of a new riparian buffer, that will provide protection of water quality that is equivalent to or greater than that provided by the riparian buffer that is lost in the same river basin as the riparian buffer that is lost and that is approved by the Department.

(4) Construction of an alternative measure that reduces nutrient loading as well or better than the riparian buffer that is lost in the same river basin as the riparian buffer that is lost and that is approved by the Department.

(5) Participation in a mitigation bank if the Department has approved the bank and the Department approves the use of the bank for the required compensatory mitigation.

(a2) Compensatory Mitigation Options Available to Applicants Other than the North Carolina Department of Transportation, Units of Local Government, and Governmental Authorities. – An applicant other than the North Carolina Department of Transportation, a unit

of local government, or a governmental authority may satisfy compensatory mitigation requirements by any of the following actions:

(1) Participation in a compensatory mitigation bank if the Department approves the use of the bank for the required compensatory mitigation. This option is only available in a hydrologic area where there is at least one compensatory mitigation bank that has been approved by the Department. For purposes of this subdivision, "hydrologic area" means the eight-digit Hydrologic Unit Code where the mitigation bank is located

(2) Payment of a compensatory mitigation fee into the Riparian Buffer Restoration Fund established in G.S. 143-214.21. This option is only available to an applicant who demonstrates that the option under subdivision (1) of this subsection is not available.

(3) Donation of real property or of an interest in real property to the Department, another State agency, a unit of local government, or a private nonprofit conservation organization if both the donee organization and the donated real property or interest in real property are approved by the Department. The Department may approve a donee organization only if the donee agrees to maintain the real property or interest in real property as a riparian buffer. The Department may approve a donation of real property or an interest in real property only if the real property or interest in real property either:

a. Is a riparian buffer that will provide protection of water quality that is equivalent to or greater than that provided by the riparian buffer that is lost in the same river basin as the riparian buffer that is lost.

b. Will be used to restore, create, enhance, or maintain a riparian buffer that will provide protection of water quality that is equivalent to or greater than that provided by the riparian buffer that is lost in the same river basin as the riparian buffer that is lost.

(4) Restoration or enhancement of an existing riparian buffer that is not otherwise required to be protected, or creation of a new riparian buffer, that will provide protection of water quality that is equivalent to or greater than that provided by the riparian buffer that is lost in the same river basin as the riparian buffer that is lost and that is approved by the Department.

(5) Construction of an alternative measure that reduces nutrient loading as well or better than the riparian buffer that is lost in the same river basin as the riparian buffer that is lost and that is approved by the Department.

(b) Compensatory mitigation is available for loss of a riparian buffer along an intermittent stream, a perennial stream, or a perennial waterbody.

(c) The Commission shall establish a standard schedule of compensatory mitigation fees. The compensatory mitigation fee schedule shall be based on the area of the riparian buffer that is permitted to be lost and the cost to provide equivalent or greater protection of water quality in the same river basin as that provided by the riparian buffer this is lost by:

(1) Restoration or enhancement of existing riparian buffers.

(2) Acquisition of land for and creation of new riparian buffers.

(3) Maintenance and monitoring of restored, enhanced, or created riparian buffers over time.

(4) Construction of alternative measures that reduce nutrient loading.

(d) The Commission may adopt rules to implement this section."

SECTION 3. Section 4 of S.L. 2007-438 is repealed.

SECTION 4.(a) Nutrient offset credits may be purchased to partially offset the nitrogen loading requirements specified in 15A NCAC 2B .0234 and 2B .0235 for the Neuse River Basin and to partially offset the nitrogen and phosphorous loading requirements specified

in 15A NCAC 2B .0258 for the Tar-Pamlico River Basin. All nutrient offset projects authorized under this section shall be consistent with rules adopted by the Environmental Management Commission for implementation of nutrient management strategies in the Neuse River Basin and the Tar-Pamlico River Basin and shall be located within the same eight-digit Cataloging Unit, designated by the United States Geological Survey, in which the associated nutrient loading takes place.

SECTION 4.(b) The North Carolina Department of Transportation, units of local government, and governmental authorities may purchase nutrient offset credits through either:

(1) Participation in a nutrient offset bank if the Department approves the use of the bank for the required nutrient offsets.

(2) Payment of a nutrient offset fee established by the Department into the Riparian Buffer Restoration Fund established in G.S. 143-214.21.

SECTION 4.(c) Applicants for nutrient offset credits other than the North Carolina Department of Transportation, a unit of local government, or a governmental authority may purchase nutrient offset credits through either:

(1) Participation in a nutrient offset bank that has been approved by the Department if the Department approves the use of the bank for the required nutrient offsets.

(2) Payment of a nutrient offset fee established by the Department into the Riparian Buffer Restoration Fund established in G.S. 143-214.21. This option is only available to an applicant who demonstrates that the option under subdivision (1) of this section is not available.

SECTION 5. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 755

Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/5/09
Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/6/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S755-CSSB-48 [v.3]

6/8/2009 10:15:36 AM

Short Title: Promote Mitigation Banks. (Public)

Sponsors:

Referred to:

March 24, 2009

A BILL TO BE ENTITLED

AN ACT TO PROMOTE THE USE OF COMPENSATORY MITIGATION BANKS FOR RIPARIAN BUFFER PROTECTION AND NUTRIENT OFFSET PAYMENTS AND TO MAKE CLARIFYING CHANGES TO THE STATUTES GOVERNING COMPENSATORY MITIGATION FOR WETLAND AND STREAM IMPACTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-214.11 reads as rewritten:

"**§ 143-214.11. Ecosystem Enhancement Program: compensatory mitigation.**

(a) Definition. – For purposes of this section, the term "compensatory mitigation" means the restoration, creation, enhancement, or preservation of ~~wetlands or other areas~~jurisdictional waters required as a condition of a ~~section 404~~ permit issued by the Department or by the United States Army Corps of Engineers. For purposes of this section, "jurisdictional waters" means wetlands, streams, or other waters of the State or of the United States. For purposes of this section, "unit of local government" means a "local government", "public authority", or "special district" as defined in G.S. 159-7.

(b) Department ~~of Environment and Natural Resources~~ to Coordinate Compensatory Mitigation. – All compensatory mitigation required by permits or authorizations issued by the Department or by the United States Army Corps of Engineers ~~under 33 U.S.C. § 1344~~ shall be coordinated by the Department consistent with the basinwide ~~plans for wetlands restoration~~restoration plans and rules developed by the Environmental Management Commission. All compensatory ~~wetlands~~ mitigation, whether performed by the Department or by permit applicants, shall be consistent with the basinwide restoration plans. All compensatory mitigation shall be consistent with rules adopted by the Commission for wetland and stream mitigation and for protection and maintenance of riparian buffers.

(c) Compensatory Mitigation Emphasis on Replacing Ecological Function Within Same River Basin. – The emphasis of compensatory mitigation is on replacing functions within the same river basin unless it is demonstrated that restoration of other areas would be more beneficial to the overall purposes of the Ecosystem Enhancement Program.

(d) Compensatory Mitigation Options Available to the North Carolina Department of ~~Transportation.~~Transportation and Units of Local Government. – The North Carolina Department of Transportation and units of local government may satisfy compensatory ~~wetlands~~ mitigation requirements by the following actions, if those actions are consistent with

the basinwide restoration plans and also meet or exceed the requirements of the Department or of the United States Army Corps of ~~Engineers:~~Engineers, as applicable:

(1) Payment of a fee established by the ~~Department~~ Commission into the Ecosystem Restoration Fund established in G.S. 143-214.12.

(2) Donation of land to the Ecosystem Enhancement Program or to other public or private nonprofit conservation organizations as approved by the Department.

(3) Participation in a ~~private wetlands~~ compensatory mitigation ~~bank.~~bank that has been approved by the United States Army Corps of Engineers, provided that the Department or the United States Army Corps of Engineers, as applicable, approves the use of such bank for the required compensatory mitigation.

(4) Preparing and implementing a ~~wetlands restoration~~compensatory mitigation plan.

(d1) Compensatory Mitigation Options Available to Applicants Other than the North Carolina Department of ~~Transportation.~~Transportation and Units of Local Government. – An applicant other than the North Carolina Department of Transportation or a unit of local government may satisfy compensatory ~~wetlands~~ mitigation requirements by the following actions, if those actions meet or exceed the requirements of the United States Army Corps of Engineers:

(1) Participation in a ~~private wetlands~~ compensatory mitigation ~~bank.~~ bank if the Department or the United States Army Corps of Engineers, as applicable, approves the use of the bank for the required compensatory mitigation. This option is only available in a hydrologic area where there is at least one ~~private wetlands~~compensatory mitigation bank that has been ~~(i)~~ approved by the United States Army Corps of ~~Engineers and that has available mitigation credit or (ii) approved by the North Carolina Division of Water Quality for resources regulated under the Neuse and Tar-Pam rules and that has available mitigation credit.~~Engineers. For purposes of this subdivision, "hydrologic area" means the eight-digit Hydrologic Unit Code where the mitigation bank is located.

(2) Payment of a fee established by the ~~Department~~ Commission into the Ecosystem Restoration Fund established in G.S. 143-214.12. ~~—~~This option is only available to an applicant ~~if~~ who demonstrates that the option under subdivision (1) of this subsection is not ~~available as an option.~~available.

(3) Donation of land to the Ecosystem Enhancement Program or to other public or private nonprofit conservation organizations as approved by the Department.

(4) Preparing and implementing a ~~wetlands restoration~~compensatory mitigation plan.

(e) Payment Schedule. – A standardized schedule of ~~per-acre payment amounts~~compensatory mitigation payment amounts shall be established by the ~~Environmental Management~~ Commission. Compensatory mitigation payments shall be made by applicants to the Ecosystem Restoration Fund established in G.S. 143-214.12. The monetary payment shall be based on the ecological functions and values of wetlands and streams permitted to be lost and on the cost of restoring or creating wetlands and streams capable of performing the same or similar functions, including directly related costs of ~~wetlands~~ wetland and stream restoration planning, long-term monitoring, and maintenance of restored areas. Compensatory mitigation payments for wetlands shall be calculated on a per-acre basis. Compensatory mitigation payments for streams shall be calculated on a per-linear foot basis.

(f) Mitigation Banks. – State agencies and ~~private~~ mitigation ~~banking companies~~banks shall demonstrate that adequate, dedicated financial surety exists to provide for the perpetual land management and hydrological maintenance of lands acquired by the State as mitigation banks, or proposed to the State as privately operated and permitted mitigation banks.

(g) Payment for Taxes. – A State agency acquiring land to restore, enhance, preserve, or create wetlands must also pay a sum in lieu of ad valorem taxes lost by the county in accordance with G.S. 146-22.3."

SECTION 2. G.S. 143-214.20 reads as rewritten:

"**§ 143-214.20. Riparian Buffer Protection Program: Alternatives to maintaining riparian buffers; compensatory mitigation fees.**

(a) Compensatory Mitigation for Riparian Buffer Loss. – The Commission shall establish a program to provide alternatives for persons who would otherwise be required to maintain riparian buffers and who can demonstrate that they have attempted to avoid and minimize the loss of the riparian buffer and that there is no practical alternative to the loss of the buffer. This program is intended to allow these persons to perform compensatory mitigation in lieu of complying with laws and rules that require that riparian buffers be protected and maintained. ~~Alternatives shall include, but are not limited to:~~ All compensatory mitigation for riparian buffer loss shall be consistent with rules adopted by the Commission for protection and maintenance of riparian buffers.

(a1) Compensatory Mitigation Options Available to the North Carolina Department of Transportation and Units of Local Government. – The North Carolina Department of Transportation and units of local government may satisfy compensatory mitigation requirements by any of the following actions:

(1) Payment of a compensatory mitigation fee into the Riparian Buffer Restoration ~~Fund~~ Fund established in G.S. 143-214.21.

(2) Donation of real property or of an interest in real property to the Department, another State agency, a unit of local government, or a private nonprofit conservation organization if both the donee organization and the donated real property or interest in real property are approved by the Department. The Department may approve a donee organization only if the donee agrees to maintain the real property or interest in real property as a riparian buffer. The Department may approve a donation of real property or an interest in real property only if the real property or interest in real property either:

a. Is a riparian buffer that will provide protection of water quality that is equivalent to or greater than that provided by the riparian buffer that is lost in the same river basin as the riparian buffer that is ~~lost; or~~lost.

b. Will be used to restore, create, enhance, or maintain a riparian buffer that will provide protection of water quality that is equivalent to or greater than that provided by the riparian buffer that is lost in the same river basin as the riparian buffer that is lost.

(3) Restoration or enhancement of an existing riparian buffer that is not otherwise required to be protected, or creation of a new riparian buffer, that will provide protection of water quality that is equivalent to or greater than that provided by the riparian buffer that is lost in the same river basin as the riparian buffer that is lost and that is approved by the Department.

(4) Construction of an alternative measure that reduces nutrient loading as well or better than the riparian buffer that is lost in the same river basin as the riparian buffer that is lost and that is approved by the Department.

(5) Participation in a mitigation bank if the Department has approved the bank and the Department approves the use of the bank for the required compensatory mitigation.

(a2) Compensatory Mitigation Options Available to Applicants Other than the North Carolina Department of Transportation and Units of Local Government. – An applicant other than the North Carolina Department of Transportation or a unit of local government may satisfy compensatory mitigation requirements by any of the following actions:

(1) Participation in a compensatory mitigation bank if the Department approves the use of the bank for the required compensatory mitigation. This option is only available in a hydrologic area where there is at least one compensatory mitigation bank that has been approved by the Department. For purposes of this subdivision, "hydrologic area" means the eight-digit Hydrologic Unit Code where the mitigation bank is located

(2) Payment of a compensatory mitigation fee into the Riparian Buffer Restoration Fund established in G.S. 143-214.21. This option is only available to an applicant who demonstrates that the option under subdivision (1) of this subsection is not available.

(3) Donation of real property or of an interest in real property to the Department, another State agency, a unit of local government, or a private nonprofit conservation organization if both the donee organization and the donated real property or interest in real property are approved by the Department. The Department may approve a donee organization only if the donee agrees to maintain the real property or interest in real property as a riparian buffer. The Department may approve a donation of real property or an interest in real property only if the real property or interest in real property either:

a. Is a riparian buffer that will provide protection of water quality that is equivalent to or greater than that provided by the riparian buffer that is lost in the same river basin as the riparian buffer that is lost.

b. Will be used to restore, create, enhance, or maintain a riparian buffer that will provide protection of water quality that is equivalent to or greater than that provided by the riparian buffer that is lost in the same river basin as the riparian buffer that is lost.

(4) Restoration or enhancement of an existing riparian buffer that is not otherwise required to be protected, or creation of a new riparian buffer, that will provide protection of water quality that is equivalent to or greater than that provided by the riparian buffer that is lost in the same river basin as the riparian buffer that is lost and that is approved by the Department.

(5) Construction of an alternative measure that reduces nutrient loading as well or better than the riparian buffer that is lost in the same river basin as the riparian buffer that is lost and that is approved by the Department.

(a3) For purposes of this section, "unit of local government" means a "local government", "public authority", or "special district" as defined in G.S. 159-7.

(b) Compensatory mitigation is available for loss of a riparian buffer along an intermittent stream, a perennial stream, or a perennial waterbody.

(c) The Commission shall establish a standard schedule of compensatory mitigation fees. The compensatory mitigation fee schedule shall be based on the area of the riparian buffer that is permitted to be lost and the cost to provide equivalent or greater protection of water quality in the same river basin as that provided by the riparian buffer this is lost by:

(1) Restoration or enhancement of existing riparian buffers.

(2) Acquisition of land for and creation of new riparian buffers.

(3) Maintenance and monitoring of restored, enhanced, or created riparian buffers over time.

(4) Construction of alternative measures that reduce nutrient loading.

(d) The Commission may adopt rules to implement this section."

SECTION 3. Section 4 of S.L. 2007-438 is repealed.

SECTION 4.(a) Nutrient offset credits may be purchased to partially offset the nitrogen loading requirements specified in 15A NCAC 2B .0234 and 2B .0235 for the Neuse River Basin and to partially offset the nitrogen and phosphorous loading requirements specified in 15A NCAC 2B .0258 for the Tar-Pamlico River Basin. All nutrient offset projects authorized under this section shall be consistent with rules adopted by the Environmental Management Commission for implementation of nutrient management strategies in the Neuse River Basin and the Tar-Pamlico River Basin and shall be located within the same eight-digit Cataloging Unit, designated by the United States Geological Survey, in which the associated nutrient loading takes place.

SECTION 4.(b) For purposes of this section, "unit of local government" means a "local government", "public authority", or "special district" as defined in G.S. 159-7

SECTION 4.(c) The North Carolina Department of Transportation and units of local government may purchase nutrient offset credits through either:

(1) Participation in a nutrient offset bank if the Department approves the use of the bank for the required nutrient offsets.

(2) Payment of a nutrient offset fee established by the Department into the Riparian Buffer Restoration Fund established in G.S. 143-214.21.

SECTION 4.(d) A party other than the North Carolina Department of Transportation or a unit of local government may purchase nutrient offset credits through either:

(1) Participation in a nutrient offset bank that has been approved by the Department if the Department approves the use of the bank for the required nutrient offsets.

(2) Payment of a nutrient offset fee established by the Department into the Riparian Buffer Restoration Fund established in G.S. 143-214.21. This option is only available to an applicant who demonstrates that the option under subdivision (1) of this section is not available.

SECTION 5. This act is effective when it becomes law.

SENATE BILL 755:
Promote Mitigation Banks

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Finance	**Date:**	June 9, 2009
Introduced by:	Senator Clodfelter	**Prepared by:**	Jeff Hudson Committee Counsel
Analysis of:	PCS to Third Edition S755-CSSB-48 [v.3]		

SUMMARY: ***The Proposed Committee Substitute for Senate Bill 755 would provide that, under certain circumstances, persons required to perform environmental mitigation must seek the mitigation from a mitigation bank before seeking mitigation from the Ecosystem Enhancement Program.***

CURRENT LAW AND BACKGROUND:

Federal and State law require developers, which includes the North Carolina Department of Transportation as well as private developers, to avoid, minimize, or mitigate damage to wetlands, damage to riparian buffers, and excess nutrient loading. One of the measures available to developers is the payment of fees into public or private programs that offset the actions of the developers with projects that restore, create, enhance, or preserve natural resources similar to those that were lost. A developer may generally do this in one of two ways.

- The developer may buy credits from a compensatory mitigation or nutrient offset bank that has already restored, created, enhanced, or preserved natural resources. There are a number of such approved banks operating in North Carolina.
- The developer may pay compensatory mitigation or nutrient offset fees to public entities or private nonprofit conservation organizations. Under this type of arrangement, the fees are typically accumulated to establish consolidated mitigation or nutrient offset projects. It is under this system that the Ecosystem Enhancement Program works.

During the 2008 Regular Session of the 2007 General Assembly, the General Assembly enacted Senate Bill 1885 (Promote Private Compensatory Mitigation). This legislation provided that, under certain circumstances, certain applicants for compensatory wetlands mitigation must seek the compensatory wetlands mitigation from a private wetlands mitigation bank before seeking wetlands mitigation from the Ecosystem Enhancement Program.

BILL ANALYSIS:

The Proposed Committee Substitute for Senate Bill 755 (PCS) would do several things relating to compensatory mitigation and nutrients offsets:

Wetland and Stream Restoration and Preservation

The PCS would make technical and clarifying changes related to last Session's Senate Bill 1885 (Promote Private Compensatory Mitigation).

Riparian Buffer Protection

The PCS would provide that under certain circumstances, applicants for compensatory riparian buffer mitigation, other than the North Carolina Department of Transportation and units of local government, must seek the compensatory riparian buffer mitigation from a compensatory mitigation bank before seeking mitigation from the Ecosystem Enhancement Program.

Specifically, an applicant must first seek compensatory riparian buffer mitigation from a compensatory mitigation bank if:

- The Department of Environment and Natural Resources, (DENR) has approved the use of the bank for the required compensatory mitigation.
- There is at least one compensatory mitigation bank in the hydrologic area that has been approved by DENR.

If there is no mitigation bank that meets these requirements, the applicant may seek mitigation from the Ecosystem Enhancement Program. The applicant always has the option to implement its own riparian buffer restoration plan or to donate land to a public entity or conservation organization approved by DENR.

Nutrient Offset Payments

The PCS would provide that under certain circumstances, applicants for nutrient offset credits, other than the North Carolina Department of Transportation and units of local government, must seek the nutrient offset credits from a nutrient offset bank before seeking nutrient offset credits from the Ecosystem Enhancement Program. Specifically, an applicant must first seek nutrient offset credits from a nutrient offset bank if:

- DENR has approved the use of the bank for the required nutrient offsets.
- There is at least one nutrient offset bank in the hydrologic area that has been approved by DENR.

If there is no nutrient offset bank that meets these requirements, the applicant may seek nutrient offsets from the Ecosystem Enhancement Program. The applicant always has the option to implement its own nutrient offset plan or to donate land to a public entity or conservation organization approved by DENR.

For all three programs, "unit of local government" means:

- A municipal corporation that is not subject to the State Budget Act and that has the power to levy taxes, including a consolidated city-county, as defined by G.S. 160B-2(1), and all boards, agencies, commissions, authorities, and institutions thereof that are not municipal corporations.
- A municipal corporation, other than a unit of local government, that is not subject to the State Budget Act or a local governmental authority, board, commission, council, or agency that (i) is not a municipal corporation, (ii) is not subject to the State Budget Act, and (iii) operates on an area, regional, or multi-unit basis, and the budgeting and accounting systems of which are not fully a part of the budgeting and accounting systems of a unit of local government.
- A unit of local government, other than a county, city, town, or incorporated village, that is created for the performance of limited governmental functions or for the operation of a particular utility or public service enterprises.

EFFECTIVE DATE: This act is effective when it becomes law.

SB 755—Promote Private Mitigation Banks

Ecosystem Enhancement Program

Intro, Thanks

The Ecosytem Enhancement Program (EEP) has not been before this Com in some time & w/ the new members, I wanted to give a short background on the program--EEP is basically a new program—just created back in 2003 by a jt agreement btw DOT & DENR—Dempsy Benton & others were involved in its creation, the reason behind its creation was that the state's existing mitigation programs weren't working effectively & were causing delays to DOT & private economic development, while at the same time not putting the mitigation in the ground in the most ecologically effective way.

EEP was quickly recognized as a National Model—has won numerous awards for gov't innovation & efficiency...we use a watershed planning approach to find the most ecologically beneficial places to put mitigation projects on the ground to restore wetlands, streams, & buffers.

At the core of what EEP is about is the In Lieu Fee Program—which is also in 30 other states, this allows for advanced mitigation of wetlands or stream degradation, which allows for a better environmental response, as well as a financially balanced approach, but the main thing DOT & private developers like about it is that it doesn't slow down their development activities while ensuring high quality environmental protection

EEP is a relatively new program that deals w/ issues of a long-time span, meaning that the science of mitigation is still evolving & the test of whether types of mitigation work takes years to complete, for ex—a mitigation project is not considered complete until it has been put in the ground & has been monitored from 5 to 30 yrs, most of the mitigation projects started under EEP are still active.

EEP can be looked at as the Middle-Man—btw DOT or a developer that are degrading the environment in some way & the companies that we K w/ that do

the actual mitigation work in the ground—incl consultants, engineers, Kors, bankers etc, so EEP has no backhoes or frontend loaders themselves & aren't competing agst these companies in anyway, also we are not the regulating body—that would be the Corp & DWQ...w/ this approach--EEP has overseen almost 560 projects st-wide & outsourced $310M in Ks to the private sector.

Under the new administration, EEP is making a renewed effort to outreach & better communicate w/ the mitigation community. We're now having monthly meetings w/ the associations that make up our mitigation partners, & making other outreach efforts.

SB 755 is expanding on a bill that only passed last year, into 2 more of EEP's mitigation programs, this bill would effectively take EEP out of the game in the areas where Mitigation Banks exist.

A major concern of EEP's & DENR's if this bills passes in its current form, is what we call a "stranded cost" or "stranded assets" issue. In private property rights arena—called a Vested Rt. EEP has determined that up to $22M in advanced credits could be lost to EEP & therefore the State, if we could no longer work in areas where MB may exist. We need to figure out how to solve this potential problem—either in this bill, or another bill. The proponents of this bill have agreed to come up w/ language to try to do so in another bill. The bottomline is the problem does need to be solved asap.

We will most likely be back in front of the GA next year, as we move thru our compliance process w/ a new fed. Rule. We will continue to work w/ the banking community, as well as the rest of our mitigation partners to continue to improve the processes of the EEP program, & look forward to working w/ you as well.

Thanks.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒Senate Committee Substitute # 2 for
SB 755 A BILL TO BE ENTITLED AN ACT TO PROMOTE THE USE OF COMPENSATORY MITIGATION BANKS FOR RIPARIAN BUFFER PROTECTION AND NUTRIENT OFFSET PAYMENTS AND TO MAKE CLARIFYING CHANGES TO THE STATUTES GOVERNING COMPENSATORY MITIGATION FOR WETLAND AND STREAM IMPACTS.

☒ With a favorable report as to House committee substitute bill unfavorable as to Senate committee substitute bill 2 and recommendation that the House committee substitute bill be re-referred to the Committee on FINANCE.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 924
Senate State and Local Government Committee Substitute Adopted 6/10/09

Short Title: Mecklenburg County/Reimbursement Agreements. (Local)

Sponsors:

Referred to:

April 1, 2009

A BILL TO BE ENTITLED

AN ACT CONCERNING PUBLIC-PRIVATE REIMBURSEMENT AGREEMENTS FOR PARK INFRASTRUCTURE DEVELOPMENT BY MECKLENBURG COUNTY AND PUBLIC-PRIVATE REIMBURSEMENT AGREEMENTS FOR INFRASTRUCTURE DEVELOPMENT BY THE CITY OF CHARLOTTE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) A county may enter into reimbursement agreements with private property owners for the design and construction of park infrastructure or parks that: (i) are included in the county's Parks Master Plan; (ii) are located on property that is adjacent to or in close proximity to other property owned by the private property owner or its affiliates; and (iii) are located on the property owned by the private property owner that is to be leased or transferred to the county.

SECTION 1.(b) A county may provide for the reimbursements to be paid from any lawful source over any period of time, including making payments that include a premium for delayed reimbursement. A county may also exchange real property owned by the county under the provisions of G.S. 160A-271 as part of the reimbursement, or in full or partial payment for a lease, or in connection with the exchange for the real property owned by the private property owner that is developed or to be developed for park purposes.

SECTION 1.(c) No construction performed by a private property owner as part of a reimbursement agreement authorized by this act shall be deemed to be construction subject to the provisions of Article 8 of Chapter 143 of the General Statutes, and no reimbursement agreement authorized by this act shall be deemed to be subject to the provisions of Article 8 of Chapter 159 of the General Statutes, and neither shall be deemed to be a violation or evasion of any provision of either of these Articles. Notwithstanding the foregoing provisions of this section, a construction contract subject to a reimbursement agreement authorized by this act shall not be awarded by a private property owner who is a party to the reimbursement agreement without complying with the requirements of G.S. 143-129 relating specifically to public advertising and bid opening requirements that would be applicable if the construction contract had been awarded by the county.

SECTION 1.(d) This section applies to Mecklenburg County only.

SECTION 2.(a) Section 3 of S.L. 2001-329 reads as rewritten:

"**SECTION 3.** A city may provide for such reimbursements to be paid from any lawful ~~source.~~source over any period of time, including making payments that include a premium for delayed reimbursement."

SECTION 2.(b) Section 4 of S.L. 2001-329 reads as rewritten:

"**SECTION 4.** No ~~reimbursement pursuant to an agreement authorized by this act shall be deemed to be construction subject to Article 8 of Chapter 143 of the General Statutes or to be~~

~~deemed to be a violation or evasion of any provision of said Article.~~construction performed by a private developer or property owner as part of a reimbursement agreement authorized by this act shall be deemed to be construction subject to the provisions of Article 8 of Chapter 143 of the General Statutes, and no reimbursement agreement authorized by this act shall be deemed to be subject to the provisions of Article 8 of Chapter 159 of the General Statutes, and neither shall be deemed to be a violation or evasion of any provision of either of these Articles. Notwithstanding the foregoing provisions of this section, a construction contract subject to a reimbursement agreement authorized by this act shall not be awarded by a developer or property owner who is a party to such reimbursement agreement without complying with the requirements of G.S. 143-129 ~~and G.S. 143-128(f)~~ relating to public advertising and bid opening requirements which would be applicable if the construction contract had been awarded by the city."

SECTION 2.(c) This section applies to the City of Charlotte only.

SECTION 3. This act is effective when it becomes law.

HOUSE BILL 924: Mecklenburg County/Reimbursement Agreements

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	June 18, 2009
Introduced by:	Rep. Carney	**Prepared by:**	Mariah Matheson
Analysis of:	Second Edition		Research Assistant

SUMMARY: House Bill 924 would provide that Mecklenburg County may enter into reimbursement agreements with private property owners for the design and construction of certain park infrastructure or parks. House Bill 924 would also amend the law that allows the City of Charlotte to enter into reimbursement agreements with private developers and property owners for the design and construction of municipal infrastructure such as water mains, sanitary sewer lines, streets, and traffic control devices. This act would become effective when it becomes law.

CURRENT LAW:

- G.S. 153A-451 allows counties to enter into reimbursement agreements with private developers and property owners for the design and construction of "municipal infrastructure" that is part of the county's Capital Improvement Plan and serves the developer or property owner. "Municipal infrastructure" includes, without limitation, water mains, sanitary sewer lines, lift stations, stormwater lines, streets, curb and gutter, sidewalks, traffic control devices, and other associated facilities. The statute does not specifically mention parks.
- S.L. 2001-329 allows the City of Charlotte to enter into reimbursement agreements similar to those authorized for counties under G.S. 153A-451.

BILL ANALYSIS:

Section 1: The bill would provide that Mecklenburg County may enter into reimbursement agreements with private property owners for the design and construction of park infrastructure or parks that have the following three characteristics:

1. They are included in the county's Parks Master Plan.
2. They are on property that is adjacent to or near other property owned by the private property owner or its affiliates.
3. They are on property owned by the private property owner that is to be leased or transferred to the county.

The reimbursement could be paid from any lawful source over any period of time, including making payments that include a premium for delayed reimbursement. The county could exchange real property owned by the county as part of the reimbursement.

The construction is exempted from Article 8 of Chapter 143, which contains the general requirements for public contracts, except that the private property owner, in awarding a construction contact, would be ıbject to the public advertising and bidding requirements of that law.

The reimbursement agreement would not be subject to Article 8 of Chapter 159, which governs local government financing agreements.

Section 2: The bill would amend S.L. 2001-329 to provide the City of Charlotte with the authority to enter into reimbursement agreements similar to those provided to Mecklenburg County in Section 1 of the bill. Section 2 would:

- Allow for payment over any period of time, and inclusion of a premium for delayed reimbursement.
- Provide that reimbursement agreements are not subject to the provisions of Article 8 of Chapter 159 of the General Statutes.
- Make a technical correction by deleting a reference to a repealed statute.

EFFECTIVE DATE: This act would become effective when it becomes law.

Bill Gilkeson, counsel to the House Local Government I Committee and Hal Pell, counsel to the Senate State and Local Government Committee, substantially contributed to this summary.

H924-SMTF-15(e2) v1

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒ Senate Committee Substitute for

HB 924 A BILL TO BE ENTITLED AN ACT CONCERNING PUBLIC-PRIVATE REIMBURSEMENT AGREEMENTS FOR PARK INFRASTRUCTURE DEVELOPMENT BY MECKLENBURG COUNTY AND PUBLIC-PRIVATE REIMBURSEMENT AGREEMENTS FOR INFRASTRUCTURE DEVELOPMENT BY THE CITY OF CHARLOTTE.

☒ With recommendation that the House concur.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 600

Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/5/09
House Committee Substitute Favorable 6/4/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S600-CSRI-35 [v.5]

6/18/2009 11:02:26 AM

Short Title: Condemnation of Conservation Easements. (Public)

Sponsors:

Referred to:

March 16, 2009

A BILL TO BE ENTITLED

AN ACT TO REQUIRE A DEMONSTRATION OF LACK OF PRUDENT AND FEASIBLE ALTERNATIVE IN ORDER FOR PUBLIC CONDEMNORS TO CONDEMN PROPERTY ENCUMBERED BY A CONSERVATION EASEMENT.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 40A of the General Statutes is amended by adding a new Article to read as follows:

"Article 6.

"Condemnation of Property Encumbered by a Conservation Easement.

"**§ 40A-80. Applicability of Article; definition.**

(a) Applicability. – The provisions of this Article: (i) shall apply only to a condemnation action initiated by a public condemnor, which for purposes of this Article shall be any entity exercising the power of eminent domain under any authority except G.S. 40A-3(a); and (ii) shall not apply to those circumstances in which the terms of the conservation easement provide an express exception for uses, purposes, and rights that may be subject to condemnation in the future, or circumstances in which the condemnation action to be taken would not extinguish, restrict, or impair the property rights of the holder of the conservation easement. "Property rights" as used herein shall include the purposes for which the easement was created.

(b) Definition. – As used in this Article, the term "conservation easement" means a conservation or historic preservation easement that meets all of the following criteria, as each of the criteria are defined under 26 U.S.C. § 170(h): (i) a qualified real property interest, (ii) held by a qualified organization, (iii) exclusively for conservation purposes.

"**§ 40A-81. Additional information required in petition or complaint filed.**

Any public entity that acts to exercise the power of eminent domain on property encumbered by a conservation easement shall initiate the action as required by this Chapter or Chapter 136 of the General Statutes as applicable. The complaint filed as required by those Chapters also shall include a statement that alleges that there is no prudent and feasible alternative to condemnation of the property encumbered by the conservation easement.

"**§ 40A-82. Demonstration of no prudent and feasible alternative required in certain actions; judicial determination.**

(a) If a holder of a conservation easement contests an action to condemn property encumbered by a conservation easement on the basis that the condemnor failed to sufficiently consider alternatives to the action or that a prudent and feasible alternative exists to the action, the holder of the conservation easement may file an answer to the complaint within 30 days from the date of service of the complaint as to that issue. If the holder of the conservation easement does not assert that the condemnor failed to sufficiently consider alternatives to the action or that a prudent and feasible alternative exists to the action, the holder of the conservation easement may file an answer within 120 days from the date of service of the complaint.

(b) If the holder of a conservation easement contests an action pursuant to subsection (a) of this section, the judge shall hear and determine whether or not a prudent and feasible alternative exists to condemnation of the property. The burden of persuasion on this issue is on the condemnor if the holder of the conservation easement, after discovery, has identified at least one alternative. If no alternative identified by the holder of the conservation easement is adjudged prudent and feasible, then the condemnation action shall proceed under the provisions of Article 3 of this Chapter, or Article 9 of Chapter 136 of the General Statutes, as applicable. If the judge determines that a prudent and feasible alternative does exist to condemnation of the property, the court shall dismiss the action and award the holder of the conservation easement costs, disbursements, and expenses in accordance with G.S. 40A-8(b) or G.S. 136-119, as applicable, except that attorney's fees may not be awarded. The procedure for this hearing shall be as set forth in G.S. 40A-47 or G.S. 136-108, as applicable.

(c) A determination as to whether a prudent or feasible alternative exists to condemnation of the property as set forth in subsection (b) of this section shall not be required for actions meeting all of the following criteria:

(1) The Department of Transportation or the North Carolina Turnpike Authority is the condemnor.

(2) Prior to filing the condemnation action, a review of the action was conducted that considered the alternatives to the condemnation of the property encumbered by the conservation easement and mitigation measures to minimize the impact.

(3) The review was conducted pursuant to any of the following:

a. The State Environmental Policy Act (SEPA), G.S. 113A-1, et seq.

b. The National Environmental Policy Act (NEPA), 42 U.S.C. § 4321, et seq.

c. 49 U.S.C. § 303.

"**§ 40A-83. Vesting of title and right of possession.**

Notwithstanding the provisions of G.S. 40A-42 or G.S. 136-104, title and right to immediate possession of property subject to this Article shall not vest in a condemnor any earlier than any of the following:

(1) The failure of the easement holder to file an answer within the 30-day time period established by G.S. 40A-82(a).

(2) Determination by the court that no prudent or feasible alternative exists to condemnation of the property pursuant to G.S 40A-82(b).

(3) Filing of the complaint and deposit in actions meeting all of the requirements of G.S. 40A-82(c).

"**§ 40A-84. Compensation for condemnation.**

In any action to condemn property encumbered by a conservation easement, the court shall determine just compensation pursuant to Article 4 of this Chapter or in accordance with Chapter 136 of the General Statutes, as applicable, by first determining the value of the property taken as a whole, unencumbered by the conservation easement, as well as any other, separately owned interest in the property. The court shall allocate the just compensation award

between or among any holders of the conservation easement and any owners of the property as provided by the easement agreement or, if the agreement fails to address the issue, as the judge finds equitable based upon evidence to include the opinion of a real estate valuation expert with experience in the valuation of conservation easements. Any party may demand trial by jury on the issue of total just compensation for the taking.

"**§ 40A-85. Appeal.**

The parties shall have a right of appeal as provided in G.S. 40A-13."

SECTION 2. This act becomes effective October 1, 2009, and applies to condemnation proceedings initiated on or after that date.

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

June 18 , 2009

SPEAKERS: PLEASE SIGN IN BELOW /

Name & Title	Representing (Agency/Company)	Bill #	Support/ Oppose
David Knight	DENR	755	
Steve Levitas	Kilpatrick Stockton / Restoration System	755	S

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 18, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Elizabeth Biser	DENR
TAD BOGGS	DENR
Alexandra Embory	DENR
Daniel Smith	Kilpatrick Stockton – Summer Clerk
Dan Conrad	NCCN
Jay Stem	NCAA
Jim Dubois	BSA
Thomas Moore	Ed. Unit
PAUL MUNN	NCLM
Sherry Page	400 Grail Place Garner 27529
Sheridan Page	400 Grail Place Garner 27529

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 18, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Steven Levitas	Kilpatrick Stockton
Barrett Jackins	Restoration Systems
Will Snyderwine	CTNC
Edgar Miller	CTNC
Wolfe Creed	Restoration Systems
Travis Hamrick	"
Preston Steele	"
Adam Raggsbee	"
Tiffani Bylow	"
Myrick Howard	Preservation NC
George Howard	Restoration Systems LLC
John Preyer	"

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 18, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Eric Galamb	DENR
Mike O'Rourke	Louis Berger Gromp + NCERA
Adam V McIntyre	Backwater Environmental & NCERA
Elizabeth Watson	Environment North Carolina
[illegible]	MWC
Tom Cors	TNC
Kevin Davis	TNC
[illegible]	NW
Dan Lanford	CCNC
Betsy McCorkle	CCNC
Amy Schilder	MWC

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 18, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[signature]	Biofuels Ctr of NC
Steven Burke	Biofuels Center of NC. Oxford
[signature]	MWC
Jessi Hayes	NC Home Builders
Lisa Martin	
Drew Saunders	Electricities
Kathy Hawkins	Progress Energy
[signature]	NCFA
Scott Granger	Duke Energy
[signature]	Corpsmart

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 18, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Monaghan	Piedmont Natural Gas
Leslie Arnold	SOG-Daily Bulletin
David Knight	DENR
Jim Stanfill	DENR
BILL GILMORE	DENR
Boyd Cauble	City of Charlotte
DANIEL BAUM	K+L GATES
Cameron Hanley	Electricities of NC
Ben Haines	Law Office of F Bryan Brice, Jr
Jon Nance	NCDOT
Johanna Reese	DOT
Lindsay Clifton	GOV'S Office

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 18, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Judith Wagner	2307 Pickard Mt Rd, Hillsborough 27278
Connie Wilson	SSJ

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 18, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lisa Riegel	NLFTF

HOUSE PAGES

NAME OF COMMITTEE House E.N. DATE 6-18-09

1. Name: Meredith Dinkins
   County: Davie
   Sponsor: Julia Howard

2. Name: Morgan Stegall
   County: Union
   Sponsor: Rep Gibson

3. Name: Anna Hamilton
   County: Wake
   Sponsor: Jennifer Weiss

4. Name: Tisha Funderburk
   County: Davie
   Sponsor: Julia Howard

5. Name: Kayla Fowler
   County: Surry
   Sponsor: Hackney

© Ashleigh Curry
Gaston County
Rep. Bernie-Floyd

SGT-AT-ARM

1. Name: Charles Williams
2. Name: Rodney Finger
3. Name: James Worth
4. Name: Robert Rossi
5. Earl Coker

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

June 25, 2009

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Thursday, June 25, 2009, in room 643 of the Legislative Office Building. Representative Lucy T. Allen presided. Members present were: Representatives Gillespie, Harrison, Justice, and Tarleton, Vice-Chairs; Representatives Blackwood, Floyd, Gibson, Killian, Luebke, Martin, McComas, McElraft, Samuelson, Tucker, and Womble.

Representative Allen called the meeting to order at 12:05 p.m. She began by introducing the pages: Alex Steiner, Orange County (sponsored by Representative Insko); Brad McVicker, Orange County (sponsored by Representative Insko); Jennifer Nguyen, Mecklenburg County (sponsored by Representative Killian); and Binh Duong, Mecklenburg County (sponsored by Speaker Killian). She then recognized the Sergeant-at-arms staff assisting with the meeting: Fred Hines, James Worth, Charles Williams, Earl Coker, and Frank Prevo.

The first item on the agenda was Committee Substitute for SB 44 – A BILL TO BE ENTITLED AN ACT TO CLARIFY THE LAW REGARDING APPEALS OF QUASI-JUDICIAL DECISIONS MADE UNDER ARTICLE 19 OF CHAPTER 160A AND ARTICLE 18 OF CHAPTER 153A OF THE GENERAL STATUTES. Representative Allen said that this bill did not actually belong in the Environment and Natural Resources Committee. At the direction of the Rules Chair, she asked that the committee pass the bill without prejudice on to the Committee on Judiciary I, where the bill would receive due consideration. Representative Womble made a motion that the committee substitute bill be reported out of committee without prejudice and referred to the Committee on Judiciary I. This motion passed without objection.

Next on the agenda was Senate Committee Substitute #2 for SB 700 - A BILL TO BE ENTITLED AN ACT TO: (1) EXTEND SUNSET DATES APPLICABLE TO THE DRY-CLEANING SOLVENT CLEANUP ACT, THE DRY-CLEANING SOLVENT CLEANUP FUND, AND THE DRY-CLEANING SOLVENT TAX; (2) ALLOW THE USE OF STATE AND LOCAL LAND-USE CONTROLS AND DEED NOTICES IN LIEU OF LAND-USE RESTRICTIONS FOR PROPERTIES IN THE AREA OF CONTAMINATED DRY-CLEANING SITES, NOT INCLUDING PROPERTIES ON WHICH A DRY-CLEANING FACILITY IS OR WAS LOCATED WHICH IS THE SOURCE OF A SITE'S CONTAMINATION; (3) MODIFY NOTICE AND COMMENT REQUIREMENTS ASSOCIATED WITH A NOTICE OF INTENT TO REMEDIATE; AND (4) REMOVE THE LIMITATION ON DISBURSEMENT OF MONIES FROM THE DRY-CLEANING SOLVENT CLEANUP FUND FOR COSTS INCURRED TO ADDRESS DRY-CLEANING SOLVENT CONTAMINATION ON STATE-OWNED PROPERTY. Representative Gibson was recognized, in the absence of the bill's primary sponsor, Senator Rand, to explain the bill. Jennifer McGinnis, Committee Counsel, assisted in outlining details of the legislation. A number of questions were presented by committee members. These were addressed by Representative Gibson and Jennifer

McGinnis with the assistance of John Powers, with the Waste Management Division of the Department of Environment and Natural Resources, who was called upon to respond to a number of specific questions and concerns presented by committee members. Denny Schafer from Fayetteville, one of the originators of the program, was recognized to comment on the bill. To address concerns about the effective date, the committee agreed to pass the bill out of committee providing a committee substitute be created to reflect a change in the effective date. Representative Harrison made a motion for a favorable report as to the House Committee Substitute, unfavorable as to the Senate Committee Substitute Bill #2, and recommendation that the House Committee Substitute be referred to the Committee on Judiciary III. This motion passed without objection

Representative Allen recognized Stephen Burke with Bio-fuels Center of North Carolina to make a presentation to the committee. However, since many members had to leave the meeting early for another commitment, Mr. Burke asked to be removed from the agenda at this time and to be rescheduled for a later date.

With no further business to come before the committee, the meeting was adjourned at 12:35 p.m.

Respectfully submitted,

Representative Lucy T. Allen, Chair

Shara Graham, Committee Assistant

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE MEETING

June25, 2009
12:00 NOON
Room 643 LOB

Representative Lucy T. Allen, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

Presentation: Biofuels Center of North Carolina - Steven Burke, President

SB 44 - Appeals of Quasi-Judicial Land-Use Decisions
Primary Sponsor: Sen. Kinnaird

SB 700 - Dry-Cleaning Solvent Act Amends
Primary Sponsor: Sen. Rand

ADJOURNMENT

SENATE BILL 44
Judiciary II Committee Substitute Adopted 5/6/09
Third Edition Engrossed 5/7/09

Short Title: Appeals of Quasi-Judicial Land-Use Decisions. (Public)

Sponsors:

Referred to:

February 4, 2009

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE LAW REGARDING APPEALS OF QUASI-JUDICIAL DECISIONS MADE UNDER ARTICLE 19 OF CHAPTER 160A AND ARTICLE 18 OF CHAPTER 153A OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Part 3 of Article 19 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A-393. Appeals in the nature of certiorari.**

(a) Applicability. – This section applies to appeals of quasi-judicial decisions of decision-making boards when that appeal is to superior court and in the nature of certiorari as required by this Article.

(b) For purposes of this section, the following terms mean:

(1) Decision-making board. – A city council, planning board, board of adjustment, or other board making quasi-judicial decisions appointed by the city council under this Article or under comparable provisions of any local act or any interlocal agreement authorized by law.

(2) Person. – Any legal entity authorized to bring suit in the legal entity's name.

(3) Quasi-judicial decision. – A decision involving the finding of facts regarding a specific application of an ordinance and the exercise of discretion when applying the standards of the ordinance. Quasi-judicial decisions include decisions involving variances, special and conditional use permits, and appeals of administrative determinations. Decisions on the approval of site plans are quasi-judicial in nature if the ordinance authorizes a decision-making board to approve or deny the site plan based not only upon whether the application complies with the specific requirements set forth in the ordinance, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings of fact to be made by the decision-making board.

(c) Filing the Petition. – An appeal in the nature of certiorari shall be initiated by filing with the superior court a petition for writ of certiorari. The petition shall:

(1) State the facts that demonstrate that the petitioner has standing to seek review.

(2) Set forth the grounds upon which the petitioner contends that an error was made.

(3) Set forth with particularity the allegations and facts, if any, in support of allegations that, as the result of impermissible conflict as described in G.S. 160A-388(e1), or locally adopted conflict rules, the decision-making body was not sufficiently impartial to comply with due process principles.

(4) Set forth the relief the petitioner seeks.

(d) Standing. – A petition may be filed under this section only by a petitioner who has standing to challenge the decision being appealed. The following persons shall have standing to file a petition under this section:

(1) Any person meeting any of the following criteria:

a. Has an ownership interest in the property that is the subject of the decision being appealed, a leasehold interest in the property that is the subject of the decision being appealed, or an interest created by easement, restriction, or covenant in the property that is the subject of the decision being appealed.

b. Has an option or contract to purchase the property that is the subject of the decision being appealed.

c. Was an applicant before the decision-making board whose decision is being appealed.

(2) Any other person who will suffer special damages as the result of the decision being appealed.

(3) An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual to challenge the decision being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal.

(4) A city whose decision-making board has made a decision that the council believes improperly grants a variance from or is otherwise inconsistent with the proper interpretation of an ordinance adopted by that council.

(e) Respondent. – The respondent named in the petition shall be the city whose decision-making board made the decision that is being appealed, except that if the petitioner is a city that has filed a petition pursuant to subdivision (d)(4) of this section, then the respondent shall be the decision-making board. If the petitioner is not the applicant before the decision-making board whose decision is being appealed, the petitioner shall also name that applicant as a respondent. Any petitioner may name as a respondent any person with an ownership or leasehold interest in the property that is the subject of the decision being appealed who participated in the hearing, or was an applicant, before the decision-making board.

(f) Writ of Certiorari. – Upon filing the petition, the petitioner shall present the petition and a proposed writ of certiorari to the clerk of court of the county in which the matter arose. The writ shall direct the respondent city, or the respondent decision-making board if the petitioner is a city that has filed a petition pursuant to subdivision (d)(4) of this section, to prepare and certify to the court the record of proceedings below within a specified date. The writ shall also direct that the petitioner shall serve the petition and the writ upon each respondent named therein in the manner provided for service of a complaint under Rule 4(j) of the Rules of Civil Procedure, except that, if the respondent is a decision-making board, the petition and the writ shall be served upon the chair of that decision-making board. Rule 4(j)(5)d. of the Rules of Civil Procedure shall apply in the event the chair of a decision-making board cannot be found. No summons shall be issued. The clerk shall issue the writ without

notice to the respondent or respondents if the petition has been properly filed and the writ is in proper form. A copy of the executed writ shall be filed with the court.

(g) Answer to the Petition. – The respondent may, but need not, file an answer to the petition, except that, if the respondent contends that any petitioner lacks standing to bring the appeal, that contention must be set forth in an answer served on all petitioners at least 30 days prior to the hearing on the petition.

(h) Intervention. – Rule 24 of the Rules of Civil Procedure shall govern motions to intervene as a petitioner or respondent in an action initiated under this section with the following exceptions:

(1) Any person described in subdivision (d)(1) of this section shall have standing to intervene and shall be allowed to intervene as a matter or right.

(2) Any person, other than one described in subdivision (d)(1) of this section, who seeks to intervene as a petitioner must demonstrate that the person would have had standing to challenge the decision being appealed in accordance with subdivisions (d)(2) through (d)(4) of this section.

(3) Any person, other than one described in subdivision (d)(1) of this section, who seeks to intervene as a respondent must demonstrate that the person would have had standing to file a petition in accordance with subdivisions (d)(2) through (d)(4) of this section if the decision-making board had made a decision that is consistent with the relief sought by the petitioner.

(i) The Record. – The record shall consist of all documents and exhibits submitted to the decision-making board whose decision is being appealed, together with the minutes of the meeting or meetings at which the decision being appealed was considered. Upon request of any party, the record shall also contain an audio or videotape of the meeting or meetings at which the decision being appealed was considered if such a recording was made. Any party may also include in the record a transcript of the proceedings, which shall be prepared at the cost of the party choosing to include it. The parties may agree, or the court may direct, that matters unnecessary to the court's decision be deleted from the record or that matters other than those specified herein be included. The record shall be bound and paginated or otherwise organized for the convenience of the parties and the court. A copy of the record shall be served by the municipal respondent, or the respondent decision-making board, upon all petitioners within three days after it is filed with the court.

(j) Hearing on the Record. – The court shall hear and decide all issues raised by the petition by reviewing the record submitted in accordance with subsection (h) of this section. Except that the court may, in its discretion, allow the record to be supplemented with affidavits, testimony of witnesses, or documentary or other evidence if, and to the extent that, the record is not adequate to allow an appropriate determination of the following issues:

(1) Whether a petitioner or intervenor has standing.

(2) Whether, as a result of impermissible conflict as described in G.S. 160A-388(e1), or locally adopted conflict rules, the decision-making body was not sufficiently impartial to comply with due process principles.

(3) Whether the decision-making body erred for the reasons set forth in sub-subdivisions a. and b. of subdivision (1) of subsection (k) of this section.

(k) Scope of Review. –

(1) When reviewing the decision of a decision-making board under the provisions of this section, the court shall ensure that the rights of petitioners have not been prejudiced because the decision-making body's findings, inferences, conclusions, or decisions were:

a. In violation of constitutional provisions, including those protecting procedural due process rights.

b. In excess of the statutory authority conferred upon the city or the authority conferred upon the decision-making board by ordinance.
c. Inconsistent with applicable procedures specified by statute or ordinance.
d. Affected by other error of law.
e. Unsupported by substantial competent evidence in view of the entire record.
f. Arbitrary or capricious.

(2) When the issue before the court is whether the decision-making board erred in interpreting an ordinance, the court shall review that issue de novo and freely substitute its judgment for that of the decision-making board.

(3) The term "competent evidence," as used in this subsection, shall not preclude reliance by the decision-making board on evidence that would not be admissible under the rules of evidence as applied in the trial division of the General Court of Justice if (i) the evidence was admitted without objection, or (ii) the evidence appears to be sufficiently trustworthy and was admitted under such circumstances that it was reasonable for the decision-making board to rely upon it. The term "competent evidence," as used in this subsection, shall not be deemed to include the opinion testimony of lay witnesses as to any of the following:

a. The use of property in a particular way would affect the value of other property.
b. The increase in vehicular traffic resulting from a proposed development would pose a danger to the public safety.
c. Matters about which only expert testimony would generally be admissible under the rules of evidence.

(l) Decision of the Court. – Following its review of the decision-making board in accordance with subsection (k) of this section, the court may affirm the decision, reverse the decision and remand the case with appropriate instructions, or remand the case for further proceedings. If the court does not affirm the decision below in its entirety, then the court shall be guided by the following in determining what relief should be granted to the petitioners:

(1) If the court concludes that the error committed by the decision-making board is procedural only, the court may remand the case for further proceedings to correct the procedural error.

(2) If the court concludes that the decision-making board has erred by failing to make findings of fact such that the court cannot properly perform its function, then the court may remand the case with appropriate instructions so long as the record contains substantial competent evidence that could support the decision below with appropriate findings of fact. However, findings of fact are not necessary when the record sufficiently reveals the basis for the decision below or when the material facts are undisputed and the case presents only an issue of law.

(3) If the court concludes that the decision by the decision-making board is not supported by substantial competent evidence in the record or is based upon an error of law, then the court may remand the case with an order that directs the decision-making board to take whatever action should have been taken had the error not been committed or to take such other action as is necessary to correct the error. Specifically:

a. If the court concludes that a permit was wrongfully denied because the denial was not based on substantial competent evidence or was otherwise based on an error of law, the court may remand with

instructions that the permit be issued, subject to reasonable and appropriate conditions.

b. If the court concludes that a permit was wrongfully issued because the issuance was not based on substantial competent evidence or was otherwise based on an error of law, the court may remand with instructions that the permit be revoked.

(m) Ancillary Injunctive Relief. – Upon motion of a party to a proceeding under this section, and under appropriate circumstances, the court may issue an injunctive order requiring any other party to that proceeding to take certain action or refrain from taking action that is consistent with the court's decision on the merits of the appeal."

SECTION 1.(b) Article 18 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-349. Appeals in the nature of certiorari.**

(a) Whenever appeals of quasi-judicial decisions of decision-making boards are to superior court and in the nature of certiorari as required by this Article, the provisions of G.S. 160A-393 shall be applicable to those appeals.

(b) For purposes of this section, as used in G.S. 160A-393, the term "city council" shall be deemed to refer to the "board of commissioners," and the term "city" or "municipal" shall be deemed to refer to the "county."

(c) For purposes of this section, the "impermissible conflict as described in G.S. 160A-388(e1)" shall mean "impermissible conflict as described in G.S. 153A-345(e1)."

SECTION 2.(a) Part 2 of Article 19 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A-377. Appeals of decisions on subdivision plats.**

(a) When a subdivision ordinance adopted under this Part provides that the decision whether to approve or deny a preliminary or final subdivision plat is to be made by a city council or a planning board, other than a planning board comprised solely of members of a city planning staff, and the ordinance authorizes the council or planning board to make a quasi-judicial decision in deciding whether to approve the subdivision plat, then that quasi-judicial decision of the council or planning board shall be subject to review by the superior court by proceedings in the nature of certiorari. The provisions of G.S. 160A-381(c), 160A-388(e2), and 160A-393 shall apply to those appeals.

(b) When a subdivision ordinance adopted under this Part provides that a city council, planning board, or staff member is authorized to make only an administrative or ministerial decision in deciding whether to approve a preliminary or final subdivision plat, then any party aggrieved by that administrative or ministerial decision may seek to have the decision reviewed by filing an action in superior court seeking appropriate declaratory or equitable relief. Such an action must be filed within the time frame specified in G.S. 160A-381(c) for petitions in the nature of certiorari.

(c). For purposes of this section, an ordinance shall be deemed to authorize a quasi-judicial decision if the city council or planning board is authorized to decide whether to approve or deny the plat based not only upon whether the application complies with the specific requirements set forth in the ordinance, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision to be made by the city council or planning board."

SECTION 2.(b) Part 2 of Article 18 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-336. Appeals of decisions on subdivision plats.**

(a) When a subdivision ordinance adopted under this Part provides that the decision whether to approve or deny a preliminary or final subdivision plat is to be made by a board of commissioners or a planning board, other than a planning board comprised solely of members

of a county planning staff, and the ordinance authorizes the board of commissioners or planning board to make a quasi-judicial decision in deciding whether to approve the subdivision plat, then that quasi-judicial decision of the board of commissioners or planning board shall be subject to review by the superior court by proceedings in the nature of certiorari. The provisions of G.S. 153A-340(f), 153A-345(e2), and 153A-349 shall apply to those appeals.

(b) When a subdivision ordinance adopted under this Part provides that a board of commissioners, planning board, or staff member is authorized to make only an administrative or ministerial decision in deciding whether to approve a preliminary or final subdivision plat, then any party aggrieved by that administrative or ministerial decision may seek to have the decision reviewed by filing an action in superior court seeking appropriate declaratory or equitable relief. Such an action must be filed within the time frame specified in G.S. 153A-340(f) for petitions in the nature of certiorari.

(c) For purposes of this section, an ordinance shall be deemed to authorize a quasi-judicial decision if the board of commissioners or planning board is authorized to decide whether to approve or deny the plat based not only upon whether the application complies with the specific requirements set forth in the ordinance, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision to be made by the board of commissioners or planning board."

SECTION 3. G.S. 63-34 reads as rewritten:

"**§ 63-34. Judicial review.**

(a) Any person aggrieved by any decision of the board of appeals, or any taxpayer, or any officer, department, board, or bureau of the political subdivision, may present to the superior court a verified petition setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the decision is filed in the office of the board. Such petition shall comply with the provisions of G.S. 160A-393.

(b) ~~Upon presentation of such petition the court may allow a writ of certiorari directed to the board of appeals to review such decision of the board.~~ The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

(c) The board of appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

~~(d) The court shall have exclusive jurisdiction to affirm, modify, or set aside the decision brought up for review, in whole or in part, and if need be, to order further proceedings by the board of appeals. The findings of fact by the board, if supported by substantial evidence, shall be accepted by the court as conclusive, and no objection to a decision of the board shall be considered by the court unless such objection shall have been urged before the board, or if it was not so urged, unless there were reasonable grounds for failure to do so.~~

(e) Costs shall not be allowed against the board of appeals unless it appears to the court that it acted with gross negligence, in bad faith, or with malice, in making the decision appealed from."

SECTION 4. G.S. 162A-93(b) reads as rewritten:

"(b) The provisions of subsection (a) shall not apply if the city council adopts an annexation ordinance including an area served by a district and finds, after a public hearing, that adequate fire protection cannot be provided in the area because of the level of available water service. Notice of the public hearing shall be provided by first class mail to each affected customer and by publication in a newspaper having general circulation in the area, each not less than 10 days before the hearing. The clerk's certification of the mailing shall be deemed

conclusive in the absence of fraud. Any resident of the annexed area aggrieved by such a finding of the council may file a petition for review in the superior court in the nature of ~~certiorari~~certiorari, within 30 days after the finding. The petition for review in the nature of certiorari shall comply with G.S. 160A-393."

SECTION 5. G.S. 160A-388(e1) reads as rewritten:

"(e1) A member of the board or any other body exercising ~~the functions of a board of adjustment~~quasi-judicial functions pursuant to this Article shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection."

SECTION 6. G.S. 153A-345(e1) reads as rewritten:

"(e1) A member of the board or any other body exercising ~~the functions of a board of adjustment~~quasi-judicial functions pursuant to this Article shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection."

SECTION 7. This act becomes effective January 1, 2010, and applies to quasi-judicial decisions rendered on or after that date.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒Committee Substitute for
SB 44 A BILL TO BE ENTITLED AN ACT TO CLARIFY THE LAW REGARDING APPEALS OF QUASI-JUDICIAL DECISIONS MADE UNDER ARTICLE 19 OF CHAPTER 160A AND ARTICLE 18 OF CHAPTER 153A OF THE GENERAL STATUTES.

☒ Without prejudice and recommendation that the committee substitute bill be re-referred to the Committee on JUDICIARY I.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 3

SENATE BILL 700
Commerce Committee Substitute Adopted 6/1/09
Finance Committee Substitute Adopted 6/10/09

Short Title: Dry-Cleaning Solvent Act Amends. (Public)

Sponsors:

Referred to:

March 24, 2009

A BILL TO BE ENTITLED

AN ACT TO: (1) EXTEND SUNSET DATES APPLICABLE TO THE DRY-CLEANING SOLVENT CLEANUP ACT, THE DRY-CLEANING SOLVENT CLEANUP FUND, AND THE DRY-CLEANING SOLVENT TAX; (2) ALLOW THE USE OF STATE AND LOCAL LAND-USE CONTROLS AND DEED NOTICES IN LIEU OF LAND-USE RESTRICTIONS FOR PROPERTIES IN THE AREA OF CONTAMINATED DRY-CLEANING SITES, NOT INCLUDING PROPERTIES ON WHICH A DRY-CLEANING FACILITY IS OR WAS LOCATED WHICH IS THE SOURCE OF A SITE'S CONTAMINATION; (3) MODIFY NOTICE AND COMMENT REQUIREMENTS ASSOCIATED WITH A NOTICE OF INTENT TO REMEDIATE; AND (4) REMOVE THE LIMITATION ON DISBURSEMENT OF MONIES FROM THE DRY-CLEANING SOLVENT CLEANUP FUND FOR COSTS INCURRED TO ADDRESS DRY-CLEANING SOLVENT CONTAMINATION ON STATE-OWNED PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.104I reads as rewritten:

"**§ 143-215.104I. Dry-Cleaning solvent remediation agreements.**

(a) Upon the completion of assessment activities required by a dry-cleaning solvent assessment agreement, one or more potentially responsible parties may petition the Commission to enter into a dry-cleaning solvent remediation agreement for any contamination requiring remediation. The Commission may, in its discretion, enter into a remediation agreement with any petitioner who satisfies the requirements of this section and the applicable requirements of G.S. 143-215.104F. If more than one potentially responsible party petitions the Commission, the Commission may enter into a single remediation agreement with one or more of the petitioners. The Commission shall not unreasonably refuse to enter into a remediation agreement pursuant to this section. The Commission may, in its discretion, enter into a remediation agreement that includes the assessment described in G.S. 143-215.104H. Petitioners shall provide the Commission with any information necessary to demonstrate:

(1) Repealed by Session Laws 2000, c. 19, s. 10, effective June 26, 2000.

(2) As a result of the remediation agreement, the contamination site will be suitable for the uses specified in the remediation agreement while fully protecting public health and the environment from dry-cleaning solvent contamination and any other contaminants included in the remediation agreement.

(3) There is a public benefit commensurate with the liability protection provided under this Part.

(4) Repealed by Session Laws 2007-530, s. 6, effective August 31, 2007.
(5) The petitioner has complied with or will comply with all applicable procedural requirements.
(6) The remediation agreement will not cause the Department to violate the terms and conditions under which the Department operates and administers remedial programs, including the programs established or operated pursuant to Article 9 of Chapter 130A of the General Statutes, by delegation or similar authorization from the United States or its departments or agencies, including the United States Environmental Protection Agency.
(7) The priority ranking assigned to the facility or site is consistent with the rules adopted by the Commission or the priority ranking that the petitioner agrees to accept is consistent with the rules adopted by the Commission.
(8) Repealed by Session Laws 2007-530, s. 6, effective August 31, 2007.
(9) The petitioner will continue to have available the financial resources necessary to satisfy the share of response costs imposed on the petitioner by G.S. 143-215.104F.
(10) Repealed by Session Laws 2007-530, s. 6, effective August 31, 2007.
(11) The consent of other property owners to enter into their property for purposes of conducting remediation activities specified in the remediation agreement.

(b) In negotiating a remediation agreement, parties may rely on land-use restrictions that will be included in a Notice of Dry-Cleaning Solvent Remediation required under G.S. 143-215.104M. A remediation agreement may provide for remediation in accordance with standards that are based on those land-use restrictions.

(b1) For properties in the area of a contamination site, other State or local land-use controls and notifications may be used in lieu of land-use restrictions. Any land-use controls used shall adequately protect human health and the environment, both currently and in the future, from exposure to dry-cleaning solvent contamination. If controls are used in lieu of land-use restrictions, then a Notice of Dry-Cleaning Solvent Remediation shall be prepared in accordance with the provisions set forth in subdivisions (1) through (4) of G.S. 143-215.104M(b) and filed in accordance with subsections (c) through (g) of G.S. 143-215.104M. In the event that the owner of the property fails to submit and file the required Notice within the time specified, the Commission may prepare and file the Notice. This subsection shall not apply to properties on which a dry-cleaning facility is or was located which is the source of the contamination.

(c) A dry-cleaning solvent remediation agreement shall contain a description of the contamination site that would be sufficient as a description of the property in an instrument of conveyance and, as applicable, a statement of:

(1) Any remediation, including remediation of contaminants other than dry-cleaning solvents, to be conducted on the property, including:
  a. A description of specific areas where remediation is to be conducted.
  b. The remediation method or methods to be employed.
  c. Repealed by Session Laws 2007-530, s. 6, effective August 31, 2007.
  d. A schedule of remediation activities.
  e. Applicable remediation standards. Applicable remediation standards for dry-cleaning solvent contamination shall not exceed the requirements adopted by the Commission pursuant to G.S. 143-104D(b)(3).
  f. A schedule and the method or methods for evaluating the remediation.

(2) Any land-use ~~restrictions~~ restrictions and State and local land-use controls and notifications that will apply to the contamination site or other property.
(3) The desired results of any ~~remediation or~~remediation, land-use ~~restrictions~~ restrictions, or State or local land-use controls or notifications with respect to the contamination site.
(4) The guidelines, including parameters, principles, and policies within which the desired results are to be accomplished.
(5) The consequences of achieving or not achieving the desired results.
(6) The priority ranking of the facility or abandoned site.
(7) Repealed by Session Laws 2007-530, s. 6, effective August 31, 2007.

(d) The Commission may refuse to enter into a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement with any petitioner if the petitioner fails to provide any information that is necessary to demonstrate the facts required to be shown by subsection (a) of this section.

(e) In addition to the basis set forth in subsection (d) of this section, the Commission may refuse to enter into a dry-cleaning solvent remediation agreement with an owner of the property on which a contamination site is located if the owner refuses to accept limitations on the future use of the property and to give notice of these limitations pursuant to G.S. 143-215.104M.

(f) The refusal of the Commission to enter into a dry-cleaning remediation agreement with any petitioner shall not affect the rights of any other petitioner, other than any parent, subsidiary, or other affiliate of the petitioner, under this Part. The refusal of the Commission to enter into a remediation agreement may be the basis for rejection of a petition by any parent, subsidiary, or other affiliate of the petitioner for the facility or abandoned site.

(g) The terms and conditions of a dry-cleaning solvent remediation agreement concerned with dry-cleaning solvent contamination shall be guided by and consistent with the rules adopted by the Commission pursuant to G.S. 143-215.104D and the disbursement authorities and limitations set out in this Part. A remediation agreement shall provide that the Commission's private contractor conduct assessment and remediation activities at the facility or abandoned site.

(h) Any failure of a petitioner or the petitioner's agents or employees to comply with the dry-cleaning solvent remediation agreement constitutes a violation of this Part by the petitioner."

SECTION 2. G.S. 143-215.104K reads as rewritten:

"**§ 143-215.104K. Liability protection.**

(a) A potentially responsible party who enters into an assessment agreement or remediation agreement with the Commission and who is complying with the agreement shall not be held liable for assessment or remediation of areas of contamination identified in the agreement except as specified in the assessment agreement or remediation agreement, so long as any activities conducted at the contamination site by or under the control or direction of the petitioner do not increase the risk of harm to public health or the environment and the petitioner is not required to undertake additional remediation to unrestricted use standards pursuant to subsection (c) of this section. The liability protection provided under this Part applies to all of the following persons to the same extent as the petitioner, so long as these persons are not otherwise potentially responsible parties or parents, subsidiaries, or affiliates of potentially responsible parties and the person is not required to undertake additional remediation to unrestricted use standards pursuant to subsection (c) of this section:

(1) Repealed by Session Laws 2007-503, s. 8, effective August 31, 2007.
(2) Any future owner of the contamination site.
(3) A person who occupies the contamination site.

(4) A successor or assign of any person to whom the liability protection provided under this Part applies.

(5) Any lender or fiduciary that provides financing to the petitioner to pay the petitioner's financial obligations under G.S. 143-215.104F.

(b) A person who conducts an environmental assessment or transaction screen on contamination resulting from a release at a certified facility or certified abandoned site consistent with a dry-cleaning solvent assessment agreement, if any was required under this Part, and who is not otherwise a potentially responsible party is not a potentially responsible party as a result of conducting the environmental assessment or transaction screen unless that person increases the risk of harm to public health or the environment by failing to exercise due diligence and reasonable care in performing the environmental assessment or transaction screen.

(c) If a land-use restriction set out in a Notice of Dry-Cleaning Solvent Remediation required under G.S. 143-215.104M is violated, the owner of the contamination site at the time the land-use restriction is violated, the owner's successors and assigns, and the owner's agents who direct or contract for alteration of the contamination site in violation of a land-use restriction shall be liable for remediation of all contaminants to unrestricted use standards. A petitioner who completes the remediation ~~or redevelopment~~ required under a dry-cleaning solvent remediation agreement or other person who receives liability protection under this Part shall not be required to undertake additional remediation unless:

(1) The petitioner knowingly or recklessly provides false information that forms a basis for the remediation agreement or that is offered to demonstrate compliance with the remediation agreement or fails to disclose relevant information about contamination related to a facility or abandoned site.

(2) New information indicates the existence of previously unreported dry-cleaning solvent contaminants or any other contaminants to be remediated under the remediation agreement, or an area of previously unreported contamination by contaminants addressed in the remediation agreement is discovered to be associated with the facility or abandoned site and has not been remediated to unrestricted use standards, unless the remediation agreement is amended to include any previously unreported contaminants and any additional area of contamination. If the remediation agreement sets maximum concentrations for contaminants and new information indicates the existence of previously unreported areas of these contaminants, further remediation shall be required only if the areas of previously unreported contaminants raise the risk of the contamination to public health or the environment to a level less protective of public health and the environment than that required by the remediation agreement.

(3) The level of risk to public health and the environment from contaminants is unacceptable at or in the vicinity of the contamination site due to changes in exposure conditions, including (i) a change in land use that increases the probability of exposure to contaminants at or in the vicinity of the contamination ~~site or~~ site; (ii) the failure of remediation to mitigate risks to the extent required to make the contamination site fully protective of public health and the environment as planned in the remediation ~~agreement.~~agreement; or (iii) removal of a State or local land-use control.

(4) The Commission obtains new information about a contaminant to be remediated under the remediation agreement and associated with the facility or abandoned site or exposures at or around the contamination site that raises the risk to public health or the environment associated with the contamination site beyond an acceptable range and in a manner or to a

degree not anticipated in the remediation agreement. Any person whose use, including any change in use, of the contamination site causes an unacceptable risk to public health or the environment may be required by the Commission to undertake additional remediation measures under the provisions of this Part.

(5) A petitioner fails to file a timely and proper Notice of Dry-Cleaning Solvent Remediation under this Part.

(6) A facility or abandoned site loses its certification before the assessment and any remediation required under the provisions of this Part and the dry-cleaning solvent remediation agreement are completed to the satisfaction of the Department.

(7) The remediation required in the remediation agreement has resulted in notification from the United States or its departments and agencies, including the Environmental Protection Agency, that the Department will violate the terms and conditions under which it operates and administers remedial programs by delegation or similar authorization."

SECTION 3. G.S. 143-215.104L reads as rewritten:

"**§ 143-215.104L. Public notice and community involvement.**

(a) If a petitioner desires to enter into a dry-cleaning solvent remediation agreement based on remediation standards that rely on the creation of land-use restrictions, or on the use of State or local land-use controls and notifications, the Commission or the Commission's private contractor on behalf of the petitioner shall notify the public and the community in which the facility or abandoned site is located of the planned remediation ~~and redevelopment~~ activities. On behalf of the petitioner, the Commission or the Commission's private contractor shall prepare a Notice of Intent to Remediate a Dry-Cleaning Solvent Facility or Abandoned Site and a summary of the Notice of Intent. The Notice of Intent shall provide, to the extent known, a legal description of the location of the contamination site, a map showing the location of the contamination site, a description of the contaminants involved and their concentrations in the media of the contamination site, a description of the future use of the contamination site, any proposed investigation and remediation, and a ~~proposed Notice of Dry-Cleaning Solvent Remediation prepared in accordance with G.S. 143-215.104M.~~description of any land-use restrictions and State and local land-use controls and notifications that will be used. Both the Notice of Intent and the summary of the Notice of Intent shall state the time period and means for submitting written comment and for requesting a public meeting on the proposed dry-cleaning solvent remediation agreement. The summary of the Notice of Intent shall include a statement as to the public availability of the full Notice of Intent. After approval of the Notice of Intent and summary of the Notice of Intent by the Commission, the Commission or the Commission's private contractor shall provide a copy of the Notice of Intent to all local governments having jurisdiction over the contamination site. The Commission or Commission's private contractor shall publish the summary of the Notice of Intent in a newspaper of general circulation serving the area in which the contamination is located and shall mail a copy of the summary to each owner of property located within the contamination site and to each owner of property that is contiguous to the contamination site. ~~shall file a copy of the summary of the Notice of Intent with the Codifier of Rules, who shall publish the summary of the Notice of Intent in the North Carolina Register.~~ The Commission or the Commission's private contractor shall also conspicuously post a copy of the summary of the Notice of Intent at the contamination site.

(b) Publication of the approved summary of the Notice of Intent ~~in the North Carolina Register and publication~~ in a newspaper of general circulation shall begin a public comment period of at least ~~60~~ 30 days from the ~~later~~ date of publication. During the public comment period, members of the public, residents of the community in which the contamination site is

located, and local governments having jurisdiction over the contamination site may submit comment on the proposed dry-cleaning solvent remediation agreement, including methods and degree of remediation, future land uses, and impact on local employment.

(c) Any person who desires a public meeting on a proposed dry-cleaning solvent remediation agreement shall submit a written request for a public meeting to the Commission within ~~30~~ 21 days after the public comment period begins. The Commission shall consider all requests for a public meeting and shall hold a public meeting if the Commission determines that there is significant public interest in the proposed remediation agreement. If the Commission decides to hold a public meeting, the Commission shall, at least ~~30~~ 15 days prior to the public meeting, mail written notice of the public meeting to all persons who requested the public meeting and to any other person who had previously requested notice. The Commission shall also publish, at least ~~30~~ 15 days prior to the date of the public meeting, a notice of the public meeting at least one time in a newspaper having general circulation in the county where the contamination site is located. In any county in which there is more than one newspaper having general circulation, the Commission shall publish a copy of the notice in as many newspapers having general circulation in the county as the Commission in its discretion determines to be necessary to assure that the notice is generally available throughout the county. The Commission shall prescribe the form and content of the notice to be published. The Commission shall prescribe the procedures to be followed in the public meeting. The Commission shall take detailed minutes of the meeting. The minutes shall include any written ~~dry-cleaning solvent remediation agreement.~~comments received during the public meeting. The Commission shall take into account the comment received during the comment period and at the public meeting if the Commission holds a public meeting. The Commission shall incorporate into the remediation agreement provisions that reflect comment received during the comment period and at the public meeting to the extent practical. The Commission shall give particular consideration to written comment that is supported by valid scientific and technical information and analysis."

SECTION 4. G.S. 143-215.104N(b) reads as rewritten:

"(b) Limitations. – Notwithstanding subsection (a) of this section, the Commission shall not make any disbursement from the Fund:

...

~~(9) For any costs incurred in connection with dry-cleaning solvent contamination from a facility or abandoned site owned by the State or a department or agency of the State.~~"

SECTION 5. Section 8 of S.L. 1997-392 reads as rewritten:

"Section 8. Section 7 of this act is repealed effective 1 January 2000. Any reimbursement authorized pursuant to Section 7 prior to 1 January 2000 shall be paid in accordance with the provisions of that section.~~Section 4 of this act is repealed effective 1 January 2010. Sections 1 and 4.1 of this act are repealed effective 1 January 2012. However:~~

~~(1) G.S. 143-215.104K is not repealed to the extent that it applies to liability arising from dry-cleaning solvent contamination described in a Dry-Cleaning Solvent Assessment Agreement or Dry-Cleaning Solvent Remediation Agreement entered into by the Environmental Management Commission pursuant to G.S. 143-215.104H and G.S. 143-215.104I.~~

~~(2) Any Dry-Cleaning Solvent Assessment Agreement or Dry-Cleaning Solvent Remediation Agreement in force as of 1 January 2012 shall continue to be governed by the provisions of Part 6 of Article 21A of Chapter 143 of the General Statutes as though those provisions had not been repealed.~~

~~(3) G.S. 143-215.104D(b)(2) is not repealed; rules adopted by the Environmental Management Commission pursuant to G.S. 143-215.104D(b)(2) shall continue in effect; and those rules may be~~

~~enforced pursuant to G.S. 143-215.104P, 143-215.104Q, and 143-215.104R, which shall remain in effect for that purpose.~~"

SECTION 6. Section 23 of S.L. 2000-19 reads as rewritten:

"Section 23. Section 1.1 of this act becomes effective ~~April 1, 2003, and expires June 30, 2010.~~ April 1, 2003. Section 1.2 of this act becomes effective ~~October 1, 2001, and expires January 1, 2010.~~ October 1, 2001. Sections 3 and 4 of this act are effective on and after April 1, 1998. Section 5.1 of this act becomes effective July 1, 2001. Section 5.2 of this act becomes effective July 1, 2002. Section 5.3 of this act becomes effective July 1, 2003. All other sections of this act are effective when this act becomes law."

SECTION 7. G.S. 143-215.104A reads as rewritten:

"**§ 143-215.104A. ~~Title.~~Title; sunset.**

This part is the "Dry-Cleaning Solvent Cleanup Act of 1997" and may be cited by that name. Except as otherwise provided in this section, this part expires 1 January 2022."

(1) G.S. 143-215.104K is not repealed to the extent that it applies to liability arising from dry-cleaning solvent contamination described in a Dry-Cleaning Solvent Assessment Agreement or Dry-Cleaning Solvent Remediation Agreement entered into by the Environmental Management Commission pursuant to G.S. 143-215.104H and G.S. 143-215.104I.

(2) Any Dry-Cleaning Solvent Assessment Agreement or Dry-Cleaning Solvent Remediation Agreement in force as of 1 January 2012 shall continue to be governed by the provisions of Part 6 of Article 21A of Chapter 143 of the General Statutes as though those provisions had not been repealed.

(3) G.S. 143-215.104D(b)(2) is not repealed; rules adopted by the Environmental Management Commission pursuant to G.S. 143-215.104D(b)(2) shall continue in effect; and those rules may be enforced pursuant to G.S. 143-215.104P, 143-215.104Q, and 143-215.104R, which shall remain in effect for that purpose."

SECTION 8. G.S. 105-164.44E reads as rewritten:

"**§ 105-164.44E. Transfer to the Dry-Cleaning Solvent Cleanup Fund.**

(a) Transfer. – At the end of each quarter, the Secretary must transfer to the Dry-Cleaning Solvent Cleanup Fund established under G.S. 143-215.104C an amount equal to fifteen percent (15%) of the net State sales and use taxes collected under G.S. 105-164.4(a)(4) during the previous fiscal year, as determined by the Secretary based on available data.

(b) Sunset. – This section is repealed effective July 1, 2020."

SECTION 9. Article 5D of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-187.35. Sunset.**

This Article is repealed effective January 1, 2020."

SECTION 10. G.S. 105-259(b)(20) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

...

(20) To furnish to the Environmental Management Commission information concerning whether a person who is requesting certification of a dry-cleaning facility or wholesale distribution facility from the Commission is liable for privilege tax under Article 5D of this Chapter. This subdivision is repealed when Part 6 of Article 21A of Chapter 143 of the General Statutes expires.

...."

SECTION 11. This act becomes effective July 1, 2009.

SENATE BILL 700:
Dry-Cleaning Solvent Act Amends

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Judiciary III	**Date:**	June 25, 2009
Introduced by:	Sen. Rand	**Prepared by:**	Jennifer McGinnis Committee Counsel
Analysis of:	Third Edition		

SUMMARY: ***The Proposed Committee Substitute (PCS) for Senate Bill 700 would: (i) extend sunset dates applicable to the Dry-Cleaning Solvent Cleanup Act (DSCA); (ii) allow the use of State and local land-use controls and deed notices in lieu of land-use restrictions for properties in the area of contaminated dry-cleaning sites; (iii) modify notice and comment requirements associated with a notice of intent to remediate a dry-cleaning site; and (iv) remove the limitation on disbursement of monies from the Fund for costs incurred to address dry-cleaning solvent contamination on State-owned property.***

[As introduced, this bill was identical to H761, as introduced by Rep. Gibson, which is currently in House Environment and Natural Resources, if favorable, Judiciary III, if favorable, Finance.]

CURRENT LAW and BACKGROUND: In 1997, the General Assembly enacted the DSCA to provide a fund, administered by the Department of Environment and Natural Resources, to assess and cleanup contaminated dry-cleaning sites using state-lead contractors. The source for the cleanup fund is tax on dry-cleaning and dry-cleaning solvents (both perchloroethylene and petroleum-based solvents). The programmatic elements of the DSCA are currently slated to be repealed on January 1, 2012. The transfer of a portion of the sales and use taxes collected from dry-cleaning services to the Dry-Cleaning Solvent Cleanup Act Fund (Fund) is scheduled to end on June 30, 2010. Collection of the Dry-Cleaning Solvent Tax (Solvent Tax) which is deposited into the Fund is scheduled to be repealed on January 1, 2010.

To date, 202 contaminated dry-cleaning sites have been accepted into the DSCA Program for cleanup. As of the end of calendar year 2008, three sites will be closed. At least eight more sites are on schedule to be closed by June of 2009. The future cost to complete clean up and close the remaining 199 sites is estimated to be approximately $34 million. The Division of Waste Management (DWM) in the Department of Environment and Natural Resources estimates there are approximately 1,300 additional contaminated sites across the State with 550 of those predicted to be brought into the DSCA Program. The cost to clean up these additional 550 sites is projected to be approximately $138 million. As of the end of 2008, the program will be spending more ($10.5 million) than it is receiving in revenues ($10.1 million). This trend of expenditures exceeding revenues is expected to increase as more sites enter the remedial phase of the program bringing the current balance to a level that will require addressing sites in order of priority. [1]

BILL ANALYSIS: The PCS would:

- Extend the sunset dates applicable to: (1) implementation of DSCA from January 1, 2012 to January 1, 2022; (2) collection of the Solvent Taxes from January 1, 2010 to January 1, 2020; and (3) transfer of the dry-cleaning sales and use tax to the Fund from June 30, 2010 to June 30, 2020.

[1] Information provided by DWM.

- Allow the use of State and local land-use controls (e.g., groundwater use restrictions, ordinances) and deed notices in lieu of land-use restrictions on property ***in the area*** of a contaminated dry-cleaning site ***(land use controls would not be available for properties on which a dry-cleaning facility is or was located)***. Land-use controls must adequately protect human health and the environment, be included in a Notice of Dry-Cleaning Solvent Remediation, and filed in the office of the register of deeds of the county or counties in which the property in question is located.
- Amend public notice requirements applicable to a proposed cleanup of a contaminated dry-cleaning site by: 1) adding a requirement that a summary of the Notice of Intent to Remediate a Dry-Cleaning Solvent Facility or Abandoned Site be mailed to each owner of property within the contamination site or contiguous to it; (2) removing the requirement to publish the summary of the Notice of Intent in the North Carolina Register; (3) reducing the minimum public comment period from 60 days to 30 days; and (4) requiring minutes of any public meeting held on a proposed dry-cleaning solvent remediation agreement to include written comments received during the meeting.
- Allow DSCA to pay for cleanups of dry-cleaning contamination discovered on properties owned by the State. Current law prohibits disbursement of monies from the Fund for this purpose.

EFFECTIVE DATE: The PCS would become effective July 1, 2009.

S700-SMRI-68(e3) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 700
Commerce Committee Substitute Adopted 6/1/09
Finance Committee Substitute Adopted 6/10/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S700-PCS15309-RIx-38

Short Title: Dry-Cleaning Solvent Act Amends. (Public)

Sponsors:

Referred to:

March 24, 2009

A BILL TO BE ENTITLED

AN ACT TO: (1) EXTEND SUNSET DATES APPLICABLE TO THE DRY-CLEANING SOLVENT CLEANUP ACT, THE DRY-CLEANING SOLVENT CLEANUP FUND, AND THE DRY-CLEANING SOLVENT TAX; (2) ALLOW THE USE OF STATE AND LOCAL LAND-USE CONTROLS AND DEED NOTICES IN LIEU OF LAND-USE RESTRICTIONS FOR PROPERTIES IN THE AREA OF CONTAMINATED DRY-CLEANING SITES, NOT INCLUDING PROPERTIES ON WHICH A DRY-CLEANING FACILITY IS OR WAS LOCATED WHICH IS THE SOURCE OF A SITE'S CONTAMINATION; (3) MODIFY NOTICE AND COMMENT REQUIREMENTS ASSOCIATED WITH A NOTICE OF INTENT TO REMEDIATE; AND (4) REMOVE THE LIMITATION ON DISBURSEMENT OF MONIES FROM THE DRY-CLEANING SOLVENT CLEANUP FUND FOR COSTS INCURRED TO ADDRESS DRY-CLEANING SOLVENT CONTAMINATION ON STATE-OWNED PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.104I reads as rewritten:

"**§ 143-215.104I. Dry-Cleaning solvent remediation agreements.**

(a) Upon the completion of assessment activities required by a dry-cleaning solvent assessment agreement, one or more potentially responsible parties may petition the Commission to enter into a dry-cleaning solvent remediation agreement for any contamination requiring remediation. The Commission may, in its discretion, enter into a remediation agreement with any petitioner who satisfies the requirements of this section and the applicable requirements of G.S. 143-215.104F. If more than one potentially responsible party petitions the Commission, the Commission may enter into a single remediation agreement with one or more of the petitioners. The Commission shall not unreasonably refuse to enter into a remediation agreement pursuant to this section. The Commission may, in its discretion, enter into a remediation agreement that includes the assessment described in G.S. 143-215.104H. Petitioners shall provide the Commission with any information necessary to demonstrate:

(1) Repealed by Session Laws 2000, c. 19, s. 10, effective June 26, 2000.

(2) As a result of the remediation agreement, the contamination site will be suitable for the uses specified in the remediation agreement while fully protecting public health and the environment from dry-cleaning solvent

contamination and any other contaminants included in the remediation agreement.

(3) There is a public benefit commensurate with the liability protection provided under this Part.

(4) Repealed by Session Laws 2007-530, s. 6, effective August 31, 2007.

(5) The petitioner has complied with or will comply with all applicable procedural requirements.

(6) The remediation agreement will not cause the Department to violate the terms and conditions under which the Department operates and administers remedial programs, including the programs established or operated pursuant to Article 9 of Chapter 130A of the General Statutes, by delegation or similar authorization from the United States or its departments or agencies, including the United States Environmental Protection Agency.

(7) The priority ranking assigned to the facility or site is consistent with the rules adopted by the Commission or the priority ranking that the petitioner agrees to accept is consistent with the rules adopted by the Commission.

(8) Repealed by Session Laws 2007-530, s. 6, effective August 31, 2007.

(9) The petitioner will continue to have available the financial resources necessary to satisfy the share of response costs imposed on the petitioner by G.S. 143-215.104F.

(10) Repealed by Session Laws 2007-530, s. 6, effective August 31, 2007.

(11) The consent of other property owners to enter into their property for purposes of conducting remediation activities specified in the remediation agreement.

(b) In negotiating a remediation agreement, parties may rely on land-use restrictions that will be included in a Notice of Dry-Cleaning Solvent Remediation required under G.S. 143-215.104M. A remediation agreement may provide for remediation in accordance with standards that are based on those land-use restrictions.

(b1) For properties in the area of a contamination site, other State or local land-use controls and notifications may be used in lieu of land-use restrictions. Any land-use controls used shall adequately protect human health and the environment, both currently and in the future, from exposure to dry-cleaning solvent contamination. If controls are used in lieu of land-use restrictions, then a Notice of Dry-Cleaning Solvent Remediation shall be prepared in accordance with the provisions set forth in subdivisions (1) through (4) of G.S. 143-215.104M(b) and filed in accordance with subsections (c) through (g) of G.S. 143-215.104M. In the event that the owner of the property fails to submit and file the required Notice within the time specified, the Commission may prepare and file the Notice. This subsection shall not apply to properties on which a dry-cleaning facility is or was located which is the source of the contamination.

(c) A dry-cleaning solvent remediation agreement shall contain a description of the contamination site that would be sufficient as a description of the property in an instrument of conveyance and, as applicable, a statement of:

(1) Any remediation, including remediation of contaminants other than dry-cleaning solvents, to be conducted on the property, including:

a. A description of specific areas where remediation is to be conducted.

b. The remediation method or methods to be employed.

c. Repealed by Session Laws 2007-530, s. 6, effective August 31, 2007.

d. A schedule of remediation activities.

e. Applicable remediation standards. Applicable remediation standards for dry-cleaning solvent contamination shall not exceed the

requirements adopted by the Commission pursuant to G.S. 143-104D(b)(3).

f. A schedule and the method or methods for evaluating the remediation.

(2) Any land-use ~~restrictions~~ restrictions and State and local land-use controls and notifications that will apply to the contamination site or other property.

(3) The desired results of any ~~remediation or~~ remediation, land-use ~~restrictions~~ restrictions, or State or local land-use controls or notifications with respect to the contamination site.

(4) The guidelines, including parameters, principles, and policies within which the desired results are to be accomplished.

(5) The consequences of achieving or not achieving the desired results.

(6) The priority ranking of the facility or abandoned site.

(7) Repealed by Session Laws 2007-530, s. 6, effective August 31, 2007.

(d) The Commission may refuse to enter into a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement with any petitioner if the petitioner fails to provide any information that is necessary to demonstrate the facts required to be shown by subsection (a) of this section.

(e) In addition to the basis set forth in subsection (d) of this section, the Commission may refuse to enter into a dry-cleaning solvent remediation agreement with an owner of the property on which a contamination site is located if the owner refuses to accept limitations on the future use of the property and to give notice of these limitations pursuant to G.S. 143-215.104M.

(f) The refusal of the Commission to enter into a dry-cleaning remediation agreement with any petitioner shall not affect the rights of any other petitioner, other than any parent, subsidiary, or other affiliate of the petitioner, under this Part. The refusal of the Commission to enter into a remediation agreement may be the basis for rejection of a petition by any parent, subsidiary, or other affiliate of the petitioner for the facility or abandoned site.

(g) The terms and conditions of a dry-cleaning solvent remediation agreement concerned with dry-cleaning solvent contamination shall be guided by and consistent with the rules adopted by the Commission pursuant to G.S. 143-215.104D and the disbursement authorities and limitations set out in this Part. A remediation agreement shall provide that the Commission's private contractor conduct assessment and remediation activities at the facility or abandoned site.

(h) Any failure of a petitioner or the petitioner's agents or employees to comply with the dry-cleaning solvent remediation agreement constitutes a violation of this Part by the petitioner."

SECTION 2. G.S. 143-215.104K reads as rewritten:

"**§ 143-215.104K. Liability protection.**

(a) A potentially responsible party who enters into an assessment agreement or remediation agreement with the Commission and who is complying with the agreement shall not be held liable for assessment or remediation of areas of contamination identified in the agreement except as specified in the assessment agreement or remediation agreement, so long as any activities conducted at the contamination site by or under the control or direction of the petitioner do not increase the risk of harm to public health or the environment and the petitioner is not required to undertake additional remediation to unrestricted use standards pursuant to subsection (c) of this section. The liability protection provided under this Part applies to all of the following persons to the same extent as the petitioner, so long as these persons are not otherwise potentially responsible parties or parents, subsidiaries, or affiliates of potentially responsible parties and the person is not required to undertake additional remediation to unrestricted use standards pursuant to subsection (c) of this section:

(1) Repealed by Session Laws 2007-503, s. 8, effective August 31, 2007.
(2) Any future owner of the contamination site.
(3) A person who occupies the contamination site.
(4) A successor or assign of any person to whom the liability protection provided under this Part applies.
(5) Any lender or fiduciary that provides financing to the petitioner to pay the petitioner's financial obligations under G.S. 143-215.104F.

(b) A person who conducts an environmental assessment or transaction screen on contamination resulting from a release at a certified facility or certified abandoned site consistent with a dry-cleaning solvent assessment agreement, if any was required under this Part, and who is not otherwise a potentially responsible party is not a potentially responsible party as a result of conducting the environmental assessment or transaction screen unless that person increases the risk of harm to public health or the environment by failing to exercise due diligence and reasonable care in performing the environmental assessment or transaction screen.

(c) If a land-use restriction set out in a Notice of Dry-Cleaning Solvent Remediation required under G.S. 143-215.104M is violated, the owner of the contamination site at the time the land-use restriction is violated, the owner's successors and assigns, and the owner's agents who direct or contract for alteration of the contamination site in violation of a land-use restriction shall be liable for remediation of all contaminants to unrestricted use standards. A petitioner who completes the remediation ~~or redevelopment~~ required under a dry-cleaning solvent remediation agreement or other person who receives liability protection under this Part shall not be required to undertake additional remediation unless:

(1) The petitioner knowingly or recklessly provides false information that forms a basis for the remediation agreement or that is offered to demonstrate compliance with the remediation agreement or fails to disclose relevant information about contamination related to a facility or abandoned site.
(2) New information indicates the existence of previously unreported dry-cleaning solvent contaminants or any other contaminants to be remediated under the remediation agreement, or an area of previously unreported contamination by contaminants addressed in the remediation agreement is discovered to be associated with the facility or abandoned site and has not been remediated to unrestricted use standards, unless the remediation agreement is amended to include any previously unreported contaminants and any additional area of contamination. If the remediation agreement sets maximum concentrations for contaminants and new information indicates the existence of previously unreported areas of these contaminants, further remediation shall be required only if the areas of previously unreported contaminants raise the risk of the contamination to public health or the environment to a level less protective of public health and the environment than that required by the remediation agreement.
(3) The level of risk to public health and the environment from contaminants is unacceptable at or in the vicinity of the contamination site due to changes in exposure conditions, including (i) a change in land use that increases the probability of exposure to contaminants at or in the vicinity of the contamination ~~site or~~ site; (ii) the failure of remediation to mitigate risks to the extent required to make the contamination site fully protective of public health and the environment as planned in the remediation ~~agreement.~~agreement; or (iii) removal of a State or local land-use control.
(4) The Commission obtains new information about a contaminant to be remediated under the remediation agreement and associated with the facility

or abandoned site or exposures at or around the contamination site that raises the risk to public health or the environment associated with the contamination site beyond an acceptable range and in a manner or to a degree not anticipated in the remediation agreement. Any person whose use, including any change in use, of the contamination site causes an unacceptable risk to public health or the environment may be required by the Commission to undertake additional remediation measures under the provisions of this Part.

(5) A petitioner fails to file a timely and proper Notice of Dry-Cleaning Solvent Remediation under this Part.

(6) A facility or abandoned site loses its certification before the assessment and any remediation required under the provisions of this Part and the dry-cleaning solvent remediation agreement are completed to the satisfaction of the Department.

(7) The remediation required in the remediation agreement has resulted in notification from the United States or its departments and agencies, including the Environmental Protection Agency, that the Department will violate the terms and conditions under which it operates and administers remedial programs by delegation or similar authorization."

SECTION 3. G.S. 143-215.104L reads as rewritten:

"**§ 143-215.104L. Public notice and community involvement.**

(a) If a petitioner desires to enter into a dry-cleaning solvent remediation agreement based on remediation standards that rely on the creation of land-use restrictions, or on the use of State or local land-use controls and notifications, the Commission or the Commission's private contractor on behalf of the petitioner shall notify the public and the community in which the facility or abandoned site is located of the planned remediation ~~and redevelopment~~ activities. On behalf of the petitioner, the Commission or the Commission's private contractor shall prepare a Notice of Intent to Remediate a Dry-Cleaning Solvent Facility or Abandoned Site and a summary of the Notice of Intent. The Notice of Intent shall provide, to the extent known, a legal description of the location of the contamination site, a map showing the location of the contamination site, a description of the contaminants involved and their concentrations in the media of the contamination site, a description of the future use of the contamination site, any proposed investigation and remediation, and a ~~proposed Notice of Dry-Cleaning Solvent Remediation prepared in accordance with G.S. 143-215.104M.~~description of any land-use restrictions and State and local land-use controls and notifications that will be used. Both the Notice of Intent and the summary of the Notice of Intent shall state the time period and means for submitting written comment and for requesting a public meeting on the proposed dry-cleaning solvent remediation agreement. The summary of the Notice of Intent shall include a statement as to the public availability of the full Notice of Intent. After approval of the Notice of Intent and summary of the Notice of Intent by the Commission, the Commission or the Commission's private contractor shall provide a copy of the Notice of Intent to all local governments having jurisdiction over the contamination site. The Commission or Commission's private contractor shall publish the summary of the Notice of Intent in a newspaper of general circulation serving the area in which the contamination is located and shall mail a copy of the summary to each owner of property located within the contamination site and to each owner of property that is contiguous to the contamination site. ~~shall file a copy of the summary of the Notice of Intent with the Codifier of Rules, who shall publish the summary of the Notice of Intent in the North Carolina Register.~~ The Commission or the Commission's private contractor shall also conspicuously post a copy of the summary of the Notice of Intent at the contamination site.

(b) Publication of the approved summary of the Notice of Intent ~~in the North Carolina Register and publication~~ in a newspaper of general circulation shall begin a public comment period of at least ~~60~~ 30 days from the ~~later~~ date of publication. During the public comment period, members of the public, residents of the community in which the contamination site is located, and local governments having jurisdiction over the contamination site may submit comment on the proposed dry-cleaning solvent remediation agreement, including methods and degree of remediation, future land uses, and impact on local employment.

(c) Any person who desires a public meeting on a proposed dry-cleaning solvent remediation agreement shall submit a written request for a public meeting to the Commission within ~~30~~ 21 days after the public comment period begins. The Commission shall consider all requests for a public meeting and shall hold a public meeting if the Commission determines that there is significant public interest in the proposed remediation agreement. If the Commission decides to hold a public meeting, the Commission shall, at least ~~30~~ 15 days prior to the public meeting, mail written notice of the public meeting to all persons who requested the public meeting and to any other person who had previously requested notice. The Commission shall also publish, at least ~~30~~ 15 days prior to the date of the public meeting, a notice of the public meeting at least one time in a newspaper having general circulation in the county where the contamination site is located. In any county in which there is more than one newspaper having general circulation, the Commission shall publish a copy of the notice in as many newspapers having general circulation in the county as the Commission in its discretion determines to be necessary to assure that the notice is generally available throughout the county. The Commission shall prescribe the form and content of the notice to be published. The Commission shall prescribe the procedures to be followed in the public meeting. The Commission shall take detailed minutes of the meeting. The minutes shall include any written ~~dry-cleaning solvent remediation agreement.~~comments received during the public meeting. The Commission shall take into account the comment received during the comment period and at the public meeting if the Commission holds a public meeting. The Commission shall incorporate into the remediation agreement provisions that reflect comment received during the comment period and at the public meeting to the extent practical. The Commission shall give particular consideration to written comment that is supported by valid scientific and technical information and analysis."

SECTION 4. G.S. 143-215.104N(b) reads as rewritten:

"(b) Limitations. – Notwithstanding subsection (a) of this section, the Commission shall not make any disbursement from the Fund:

...

~~(9) For any costs incurred in connection with dry-cleaning solvent contamination from a facility or abandoned site owned by the State or a department or agency of the State.~~"

SECTION 5. Section 8 of S.L. 1997-392 reads as rewritten:

"Section 8. Section 7 of this act is repealed effective 1 January 2000. Any reimbursement authorized pursuant to Section 7 prior to 1 January 2000 shall be paid in accordance with the provisions of that section.~~Section 4 of this act is repealed effective 1 January 2010. Sections 1 and 4.1 of this act are repealed effective 1 January 2012. However:~~

~~(1) G.S. 143-215.104K is not repealed to the extent that it applies to liability arising from dry-cleaning solvent contamination described in a Dry-Cleaning Solvent Assessment Agreement or Dry-Cleaning Solvent Remediation Agreement entered into by the Environmental Management Commission pursuant to G.S. 143-215.104H and G.S. 143-215.104I.~~

~~(2) Any Dry-Cleaning Solvent Assessment Agreement or Dry-Cleaning Solvent Remediation Agreement in force as of 1 January 2012 shall continue to be~~

~~governed by the provisions of Part 6 of Article 21A of Chapter 143 of the General Statutes as though those provisions had not been repealed.~~

~~(3) G.S. 143-215.104D(b)(2) is not repealed; rules adopted by the Environmental Management Commission pursuant to G.S. 143-215.104D(b)(2) shall continue in effect; and those rules may be enforced pursuant to G.S. 143-215.104P, 143-215.104Q, and 143-215.104R, which shall remain in effect for that purpose.~~"

SECTION 6. Section 23 of S.L. 2000-19 reads as rewritten:

"Section 23. Section 1.1 of this act becomes effective ~~April 1, 2003, and expires June 30, 2010.~~ April 1, 2003. Section 1.2 of this act becomes effective ~~October 1, 2001, and expires January 1, 2010.~~ October 1, 2001. Sections 3 and 4 of this act are effective on and after April 1, 1998. Section 5.1 of this act becomes effective July 1, 2001. Section 5.2 of this act becomes effective July 1, 2002. Section 5.3 of this act becomes effective July 1, 2003. All other sections of this act are effective when this act becomes law."

SECTION 7. G.S. 143-215.104A reads as rewritten:

"**§ 143-215.104A. ~~Title.~~Title; sunset.**

This part is the "Dry-Cleaning Solvent Cleanup Act of 1997" and may be cited by that name. Except as otherwise provided in this section, this part expires 1 January 2022."

(1) G.S. 143-215.104K is not repealed to the extent that it applies to liability arising from dry-cleaning solvent contamination described in a Dry-Cleaning Solvent Assessment Agreement or Dry-Cleaning Solvent Remediation Agreement entered into by the Environmental Management Commission pursuant to G.S. 143-215.104H and G.S. 143-215.104I.

(2) Any Dry-Cleaning Solvent Assessment Agreement or Dry-Cleaning Solvent Remediation Agreement in force as of 1 January 2012 shall continue to be governed by the provisions of Part 6 of Article 21A of Chapter 143 of the General Statutes as though those provisions had not been repealed.

(3) G.S. 143-215.104D(b)(2) is not repealed; rules adopted by the Environmental Management Commission pursuant to G.S. 143-215.104D(b)(2) shall continue in effect; and those rules may be enforced pursuant to G.S. 143-215.104P, 143-215.104Q, and 143-215.104R, which shall remain in effect for that purpose."

SECTION 8. G.S. 105-164.44E reads as rewritten:

"**§ 105-164.44E. Transfer to the Dry-Cleaning Solvent Cleanup Fund.**

(a) Transfer. – At the end of each quarter, the Secretary must transfer to the Dry-Cleaning Solvent Cleanup Fund established under G.S. 143-215.104C an amount equal to fifteen percent (15%) of the net State sales and use taxes collected under G.S. 105-164.4(a)(4) during the previous fiscal year, as determined by the Secretary based on available data.

(b) Sunset. – This section is repealed effective July 1, 2020."

SECTION 9. Article 5D of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-187.35. Sunset.**

This Article is repealed effective January 1, 2020."

SECTION 10. G.S. 105-259(b)(20) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

...

(20) To furnish to the Environmental Management Commission information concerning whether a person who is requesting certification of a

dry-cleaning facility or wholesale distribution facility from the Commission is liable for privilege tax under Article 5D of this Chapter. This subdivision is repealed when Part 6 of Article 21A of Chapter 143 of the General Statutes expires."

SECTION 11. This act is effective when it becomes law.

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 25, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mike Carpenter	NCHBA
Danny Shaffer	NCDOT 2910 Skye Dr Fayetteville, NC 28303
Henry Jones	Attorney - Raleigh
Jessi Hayes	NCHBA
Gary Harris	NCPCM
Doug Howey	NCPCM
L Andrews	NCFB
David Crawford	AIA NC
Cady Thomas	NC Assn of REALTORS
Leon Killian	nelson mullins
Erica Peterson	NCAg

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 25, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Alexandra Embory	DENR
Glenn Sappie	DENR
Leslie Arnold	SOG Daily Bulletin
Linda Culpepper	DENR
John Powers	DENR
Elizabeth Biser	DENR
Dan Conrad	NCCN
Tom Cors	TNC
Ezra Mills	CTNC
K Rogers	CWMTF
Will Snyderwine	CTNC

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 25, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
PGP	NCFB
Lisa Martin	NC Home Builders
Lori Wunn	NCSBA

BIG T

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 25, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
ROCKY LANE	SANFORD HOLSHOUSER ECON. DEV. Consult
Robin Smith	DENR
Bob Peele	NCSBC - Wanchese
Guy Mickel	NCAGO
Peter Raabe	American Rivers

ENVIRONMENT + NATURAL RES.

HOUSE PAGES

NAME OF COMMITTEE _____ DATE 06-25-09

1. Name: Alex Steiner
   County: Orange
   Sponsor: Insko
2. Name: Brad McVicker
   County: Orange
   Sponsor: Insko
3. Name: Jennifer Nguyen
   County: Mecklenburg
   Sponsor: Killian
4. Name: Binh Duong
   County: Mecklenburg
   Sponsor: Killian
5. Name: _____
   County: _____
   Sponsor: _____

SGT-AT-ARM

1. Name: FRED HINES S. JAMES WORTH
2. Name: CHARLES WILLIAMS
3. Name: EARL COKER
4. Name: FRANK PREVO

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

July 2, 2009

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Thursday, July 2, 2009, in room 643 of the Legislative Office Building. Representative Lucy T. Allen presided. Members present were: Representatives Gillespie, Harrison, Tarleton, and Underhill Vice-Chairs; Representatives Blackwood, Floyd, Gibson, Haire, Insko, Killian, Luebke, Martin, McComas, McElraft, Samuelson, and West.

Representative Allen called the meeting to order at 12:05 p.m. She began by introducing the pages: Macy Smith, Davie County (sponsored by Representative Howard); Angela Vogler, Forsyth County (sponsored by Representative Folwell); Meredith Abernethy, Forsyth County (sponsored by Representative Brown); and Ellen Williams, Pitt County (sponsored by Representative McLawhorn). She then recognized the Sergeant-at-arms staff assisting with the meeting: Tusant Avent, Earl Coker, Gerald Perry, James Worth, and Martha Parrish.

Representative Blackwood was recognized to comment on material he had placed on the desks of committee members (copy attached). He explained that the booklet, "Is the U.S. Surface Temperature Record Reliable?" reflected findings of a study regarding surface temperatures of the earth as they relate to the discussion of global warming.

The first item on the agenda was House Committee Substitute for SB 600 – A BILL TO BE ENTITLED AN ACT TO REQUIRE A DEMONSTRATION OF LACK OF PRUDENT AND FEASIBLE ALTERNATIVE IN ORDER FOR PUBLIC CONDEMNORS TO CONDEMN PROPERTY ENCUMBERED BY A CONSERVATION EASEMENT. House Committee substitute (v. 9) was distributed for the committee's consideration. Representative Blackwood made a motion that the PCS be placed before the committee. This motion passed without objection. Representative Samuelson was recognized to explain the bill in the absence of Senator Clodfelter, the bill's primary sponsor. She spoke of the hours of negotiations that went into reworking this bill so that the PCS before the committee would reflect the best compromise possible. She asked for a favorable vote from committee members. Representative Allen then opened the floor for questions from committee members. In addition to questions, Representative Killian spoke in opposition to the bill and Representative Haire sent forth an amendment (copy attached). Representative Haire's amendment received an unfavorable vote. Representative Blackwood made a motion for a favorable report for House Committee Substitute number 2, unfavorable as to House Committee Substitute number 1, and recommendation that House Committee Substitute 2 be referred to the Committee on Appropriations. A majority vote in favor of this motion prevailed.

The next item on the agenda was Senate Committee Substitute for SB 307 - A BILL TO BE ENTITLED AN ACT TO AMEND THE LAW REGULATING THE USE OF CERTAIN REPTILES. Senator Jones, the bill's primary sponsor, was recognized to explain the bill. Following his presentation, Andrew Wyatt, President of the United

States Association of Reptile Keepers, spoke in favor of the bill. Committee members presented questions to Senator Jones and Mr. Wyatt. Once all questions and concerns were addressed, Representative Floyd made a motion for a favorable report for the Senate Committee Substitute for SB 307. This motion received unanimous approval.

With no further business to come before the committee, the meeting was adjourned at 12:35 p.m.

Respectfully submitted,

Lucy T. Allen

Representative Lucy T. Allen, Chair

Shara Graham

Shara Graham, Committee Assistant

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE MEETING

July 2, 2009
12:00 NOON
Room 643 LOB

Representative Lucy T. Allen, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

SB 600 - Condemnation of Conservation Easements
Primary Sponsor: Sen. Clodfelter

SB 307 - Regulate Ownership & Use of Certain Reptiles
Primary Sponsor: Sen. Jones

ADJOURNMENT

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 600

Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/5/09
House Committee Substitute Favorable 6/4/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S600-CSRI-35 [v.9]

7/2/2009 10:51:20 AM

Short Title: Condemnation of Conservation Easements. (Public)

Sponsors:

Referred to:

March 16, 2009

A BILL TO BE ENTITLED

AN ACT TO REQUIRE A DEMONSTRATION OF LACK OF PRUDENT AND FEASIBLE ALTERNATIVE IN ORDER FOR PUBLIC CONDEMNORS TO CONDEMN PROPERTY ENCUMBERED BY A CONSERVATION EASEMENT.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 40A of the General Statutes is amended by adding a new Article to read as follows:

"Article 6.

"Condemnation of Property Encumbered by a Conservation Easement.

"**§ 40A-80. Applicability of Article; definition.**

(a) Applicability. –

(1) The provisions of this Article shall apply only to a condemnation action initiated by a public condemnor, which for purposes of this Article shall be any entity exercising the power of eminent domain under any authority except G.S. 40A-3(a).

(2) Except with respect to G.S. 40A-84, the provisions of this Article shall not apply to those circumstances in which: (i) the terms of the conservation easement provide an express exception for uses, purposes, and rights that may be subject to condemnation in the future, or circumstances in which the condemnation action to be taken would not extinguish, restrict, or impair the property rights of the holder of the conservation easement. "Property rights" as used herein shall include the purposes for which the easement was created; and (ii) a local public condemnor or other public condemnor under G.S. 40A-3 is constructing, enlarging, or improving electric distribution systems; gas production, storage, transmission, and distribution systems; water supply and distribution systems; wastewater collection, treatment, and disposal systems of all types; storm sewer and drainage systems; or trails associated with greenways. In condemnation actions exempt pursuant to this subdivision, a condemnor shall make reasonable efforts, after completion of the project for which the condemnation was undertaken, to return the property to the condition that the property existed in prior to condemnation to the extent practicable.

(b) Definition. – As used in this Article, the term "conservation easement" means a conservation or historic preservation easement that meets all of the following criteria, as each of the criteria are defined under 26 U.S.C. § 170(h): (i) a qualified real property interest, (ii) held by a qualified organization, and (iii) exclusively for conservation purposes.

"**§ 40A-81. Additional information required in petition or complaint filed.**

Any public entity that acts to exercise the power of eminent domain on property encumbered by a conservation easement shall initiate the action as required by this Chapter or Chapter 136 of the General Statutes as applicable. The complaint filed as required by those Chapters also shall include a statement that alleges that there is no prudent and feasible alternative to condemnation of the property encumbered by the conservation easement.

"**§ 40A-82. Demonstration of no prudent and feasible alternative required in certain actions; judicial determination.**

(a) If a holder of a conservation easement contests an action to condemn property encumbered by a conservation easement on the basis that the condemnor failed to sufficiently consider alternatives to the action or that a prudent and feasible alternative exists to the action, the holder of the conservation easement may file an answer to the complaint within 30 days from the date of service of the complaint as to that issue. If the holder of the conservation easement does not assert that the condemnor failed to sufficiently consider alternatives to the action or that a prudent and feasible alternative exists to the action, the holder of the conservation easement may file an answer within 120 days from the date of service of the complaint.

(b) If the holder of a conservation easement contests an action pursuant to subsection (a) of this section, the judge shall hear and determine whether or not a prudent and feasible alternative exists to condemnation of the property. The burden of persuasion on this issue is on the condemnor if the holder of the conservation easement, after discovery, has identified at least one alternative. If no alternative identified by the holder of the conservation easement is adjudged prudent and feasible, then the condemnation action shall proceed under the provisions of Article 3 of this Chapter, or Article 9 of Chapter 136 of the General Statutes, as applicable. If the judge determines that a prudent and feasible alternative does exist to condemnation of the property, the court shall dismiss the action and award the holder of the conservation easement costs, disbursements, and expenses in accordance with G.S. 40A-8(b) or G.S. 136-119, as applicable, except that attorney's fees may not be awarded. The procedure for this hearing shall be as set forth in G.S. 40A-47 or G.S. 136-108, as applicable.

(c) A determination as to whether a prudent or feasible alternative exists to condemnation of the property as set forth in subsection (b) of this section shall not be required for actions meeting all of the following criteria:

(1) The Department of Transportation or the North Carolina Turnpike Authority is the condemnor.

(2) Prior to filing the condemnation action, a review of the project for which the property is being condemned was conducted that considered the alternatives to the condemnation of the property encumbered by the conservation easement and mitigation measures to minimize the impact. The condemnor shall, in the complaint filed with the court, identify the alternatives and mitigation measures considered with regard to condemnation of the property encumbered by the conservation easement.

(3) The review was conducted pursuant to any of the following:

a. The State Environmental Policy Act (SEPA), G.S. 113A-1, et seq.

b. The National Environmental Policy Act (NEPA), 42 U.S.C. § 4321, et seq.

c. 49 U.S.C. § 303.

"**§ 40A-83. Vesting of title and right of possession.**

Notwithstanding the provisions of G.S. 40A-42 or G.S. 136-104, title and right to immediate possession of property subject to this Article shall not vest in a condemnor any earlier than any of the following:

(1) The failure of the easement holder to file an answer within the 30-day time period established by G.S. 40A-82(a).

(2) Determination by the court that no prudent or feasible alternative exists to condemnation of the property pursuant to G.S 40A-82(b).

(3) Filing of the complaint and deposit in actions meeting all of the requirements of G.S. 40A-82(c).

"**§ 40A-84. Compensation for condemnation.**

In any action to condemn property encumbered by a conservation easement, the court shall determine just compensation pursuant to Article 4 of this Chapter or in accordance with Chapter 136 of the General Statutes, as applicable, by first determining the value of the property taken as a whole, unencumbered by the conservation easement, as well as any other, separately owned interest in the property. The court shall allocate the just compensation award between or among any holders of the conservation easement and any owners of the property as provided by the easement agreement or, if the agreement fails to address the issue, as the judge finds equitable based upon evidence to include the opinion of a real estate valuation expert with experience in the valuation of conservation easements. Any party may demand trial by jury on the issue of total just compensation for the taking.

"**§ 40A-85. Appeal.**

The parties shall have a right of appeal as provided in G.S. 40A-13."

SECTION 2. This act becomes effective October 1, 2009, and applies to condemnation proceedings initiated on or after that date.

SENATE BILL 600:
Condemnation of Conservation Easements

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	July 2, 2009
Introduced by:	Sen. Clodfelter	**Prepared by:**	Jennifer McGinnis Committee Counsel
Analysis of:	PCS to Third Edition S600-CSRI-35 [v.9]		

SUMMARY: ***The Proposed Committee Substitute (PCS) for Senate Bill 600 would generally require public condemnors acting to exercise the power of eminent domain over property encumbered by a conservation easement to demonstrate that there is no prudent and feasible alternative to condemnation of the property encumbered by a conservation easement. The PCS would also direct how holders of conservation easements are to be compensated in the event of condemnation.***

[As introduced, this bill was identical to H1080, as introduced by Reps. Samuelson, Harrison, Allen, Rhyne, which is currently in House Judiciary I, if favorable, Environment and Natural Resources, if favorable, Appropriations.]

CURRENT LAW: The General Statutes authorize public condemnors to condemn property for certain purposes. Under the statutes, as well as both the State and federal constitutions, private property may only be taken for a public use or benefit and upon the payment of just compensation.

BILL ANALYSIS: The PCS would generally require public condemnors acting to exercise the power of eminent domain over property encumbered by a conservation easement to demonstrate that there is no prudent and feasible alternative to condemnation of the property encumbered by the conservation easement.

Prudent and feasible requirement: Public condemnors (except as noted below) would be required to include in the complaint filed a statement alleging that there is no prudent and feasible alternative to condemnation of the property in question. If the holder of an easement contests a condemnation action on the basis that the condemnor failed to sufficiently consider alternatives to the action or that a prudent and feasible alternative exists, a judge would hear and determine whether or not a prudent and feasible alternative existed. If the judge determined that a prudent and feasible alternative did exist, the court would be required to dismiss the condemnation action and award costs to the easement holder.

Exemptions:

- Except with respect to the compensation provisions described below, the provisions of the new Article would not be applicable to circumstances in which the terms of the easement provided an express exception for uses that may be subject to condemnation in the future, or circumstances in which the condemnation action would not extinguish, restrict, or impair the property rights of the easement holder. In addition, the provisions would not be applicable to actions commenced for certain public enterprise activities. Condemnors exempt under these circumstances, however, would still be obligated to make reasonable efforts (after completion of the project for which the condemnation was undertaken) to return the property to the condition that the property existed in prior to condemnation to the extent practicable.
- A judicial determination concerning whether a prudent and feasible alternative existed would not be required in cases involving the State's Department of Transportation (DOT) or the Turnpike Authority, where a review of the action was conducted pursuant to the State Environmental Policy Act (SEPA) or the National Environmental Policy Act (NEPA), or under a provision of

the federal Department of Transportation Act (which stipulates that the Federal Highway Administration and other Department of Transportation agencies cannot approve the use of land from publicly owned parks, recreational areas, wildlife and waterfowl refuges, or public and private historical sites unless the following conditions apply: (i) there is no feasible and prudent alternative to the use of land; and (ii) the action includes all possible planning to minimize harm to the property resulting from use).

Compensation: The PCS directs that the court must first determine the value of the property taken as a whole, unencumbered by the conservation easement, and then apportion the award between or among any holders of the conservation easement and any owners of the property as provided by the easement agreement or, if the agreement fails to address the issue, as the judge finds equitable based upon evidence to include the opinion of a real estate valuation expert with experience in the valuation of conservation easements.

EFFECTIVE DATE: The PCS would become effective October 1, 2009, and apply to condemnation actions filed on or after that date.

S600-SMRI-65(CSRI-35) v3

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 600

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S600-ARI-22 [v.1]

Comm. Sub. [YES]
Amends Title [NO]
Third Edition

Date 7-2 ,2009

Representative Haire

moves to amend the bill on page 2, line 32,
by rewriting that line to read:

"applicable. The procedure for this hearing shall".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ✓ TABLED _____

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒ House Committee Substitute # 1 for
SB 600 A BILL TO BE ENTITLED AN ACT TO REQUIRE A DEMONSTRATION OF LACK OF PRUDENT AND FEASIBLE ALTERNATIVE IN ORDER FOR PUBLIC CONDEMNORS TO CONDEMN PROPERTY ENCUMBERED BY A CONSERVATION EASEMENT.

☒ With a favorable report as to House Committee Substitute Bill 2, unfavorable as to House Committee Substitute Bill 1, and recommendation that House Committee Substitute Bill 2 be re-referred to the Committee on APPROPRIATIONS.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No.____) is placed on the Calendar of _____. (The original bill resolution No.____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 2

SENATE BILL 307
Judiciary II Committee Substitute Adopted 3/30/09

Short Title: Regulate Ownership & Use of Certain Reptiles. (Public)

Sponsors:

Referred to:

February 25, 2009

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW REGULATING THE USE OF CERTAIN REPTILES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 55 of Chapter 14 of the General Statutes reads as rewritten:

"Article 55.

"~~Handling~~ Regulation of ~~Poisonous~~ Certain Reptiles.

"§ 14-416. ~~Handling~~ Mishandling of ~~poisonous~~ certain reptiles declared public nuisance and criminal offense.

The intentional or negligent exposure of other human beings to unsafe contact with ~~reptiles of a venomous nature~~ venomous reptiles, large constricting snakes, or crocodilians ~~being~~ is essentially dangerous and injurious and detrimental to public health, safety and welfare, ~~the indulgence in and inducement to such exposure is hereby~~ and is therefore declared to be a public nuisance and a criminal offense, to be abated and punished as provided in this Article.

"§ 14-417. Regulation of ownership or use of ~~poisonous~~ venomous reptiles.

(a) It shall be unlawful for any person to own, possess, use, transport, or traffic in any venomous reptile ~~of a poisonous nature whose venom is not removed, unless such reptile is at all times kept securely in a box, cage, or other safe container in which there are no openings of sufficient size to permit the escape of such reptile, or through which such reptile can bite or inject its venom into any human being.~~ that is not housed in a sturdy and secure enclosure. Permanent enclosures shall be designed to be escape-proof, bite-proof, and have an operable lock. Transport containers shall be designed to be escape-proof and bite-proof.

(b) Each enclosure shall be clearly and visibly labeled 'Venomous Reptile Inside' with scientific name, common name, appropriate antivenom, and owner's identifying information noted on the container. A written bite protocol that includes emergency contact information, local animal control office, the name and location of suitable antivenom, first aid procedures, and treatment guidelines, as well as an escape recovery plan must be within sight of permanent housing, and a copy must accompany the transport of any venomous reptile.

(c) In the event of an escape of a venomous reptile, the owner or possessor of the venomous reptile shall immediately notify local law enforcement.

"§ 14-417.1. Regulation of ownership or use of large constricting snakes.

(a) As used in this Article, large constricting snakes shall mean: Reticulated Python, Python reticulates; Burmese Python, Python molurus; African Rock Python, Python sebae; Amethystine Python, Morelia amethistina; and Green Anaconda, Eunectes murinus; or any of their subspecies or hybrids.

(b) It shall be unlawful for any person to own, possess, use, transport, or traffic in any of the large constricting snakes that are not housed in a sturdy and secure enclosure. Permanent

enclosures shall be designed to be escape-proof and shall have an operable lock. Transport containers shall be designed to be escape-proof.

(c) Each enclosure shall be labeled clearly and visibly with the scientific name, common name, number of specimens, and owner's identifying information. A written safety protocol and escape recovery plan shall be within sight of permanent housing, and a copy shall accompany the transport of any of the large constricting snakes. The safety protocol shall include emergency contact information, identification of the local animal control office, and first aid procedures.

(d) In the event of an escape of a large constricting snake, the owner or possessor shall immediately notify local law enforcement.

"**§ 14-417.2. Regulation of ownership or use of crocodilians.**

(a) All crocodilians, excluding the American alligator, shall be regulated under this Article. It shall be unlawful for any person to own, possess, use, transport, or traffic in any crocodilian that is not housed in a sturdy and secure enclosure. Permanent enclosures shall be designed to be escape-proof and have a fence of sufficient strength to prevent contact between an observer and the crocodilian and shall have an operable lock. Transport containers shall be designed to be escape-proof.

(b) A written safety protocol and escape recovery plan shall be within sight of permanent housing, and a copy must accompany the transport of any crocodilian.

(c) In the event of the escape of a crocodilian, the owner or possessor shall immediately notify local law enforcement.

"**§ 14-418. Prohibited handling of reptiles or suggesting or inducing others to handle.**

(a) It shall be unlawful for any person to ~~intentionally~~ handle any reptile ~~of a poisonous nature whose venom is not removed, by taking or holding such reptile in bare hands or by placing or holding such reptile against any exposed part of the human anatomy, or by placing their own or another's hand or any other part of the human anatomy in or near any box, cage, or other container wherein such reptile is known or suspected to be.~~ regulated under this Article in a manner that intentionally or negligently exposes another person to unsafe contact with the reptile.

(b) It shall ~~also~~ be unlawful for any person to intentionally or negligently suggest, entice, invite, challenge, intimidate, exhort or otherwise induce or aid any person to handle or expose himself in an unsafe manner to any ~~such poisonous~~ reptile regulated ~~in any manner defined in~~ under this Article.

(c) Safe and responsible handling of reptiles for purposes of animal husbandry, exhibition, training, transport, and education is permitted under this section.

"**§ 14-419. Investigation of suspected violations; seizure and examination of reptiles; disposition of reptiles.**

In any case in which any law-enforcement officer or animal control officer has ~~reasonable grounds~~ probable cause to believe that any of the provisions of this Article have been or are about to be violated, it shall be the duty of ~~such~~ the officer and the officer ~~he~~ is ~~hereby~~ authorized, empowered, and directed to immediately investigate ~~such~~ the violation or impending violation and to ~~forthwith~~ seize the reptile or reptiles involved, and ~~all such officers~~ the officer is ~~are hereby~~ authorized and directed to ~~deliver such reptiles~~ deliver: (i) a reptile believed to be venomous to the North Carolina State Museum of Natural Sciences or to its designated representative for examination ~~and test~~ for the purpose of ascertaining whether ~~said reptiles contain venom and are poisonous.~~ the reptile is regulated under this Article; and, (ii) a reptile believed to be a large constricting snake or crocodilian to the North Carolina Zoological Park for the purpose of ascertaining whether the reptile is regulated under this Article. If the Museum or the Zoological Park ~~North Carolina State Museum of Natural Sciences or its designated representative finds that said reptiles are dangerously poisonous,~~ or their designated representatives find that a seized reptile is a venomous reptile, large

constricting snake, or crocodilian regulated under this Article, the ~~North Carolina State Museum of Natural Sciences~~ Museum or the Zoological Park or ~~its~~ their designated representative shall ~~be empowered to dispose~~ determine final disposition of ~~said reptiles~~ the reptile in a manner consistent with the safety of the ~~public; but if~~public. If the Museum or the Zoological Park or ~~its~~ their designated ~~representative~~ representatives find that the ~~reptiles are not dangerously poisonous, and are not and cannot be harmful to human life, safety, health or welfare,~~ reptile is not a venomous reptile, large constricting snake, or crocodilian regulated under this Article, and either no criminal warrants or indictments are initiated in connection with the reptile within 10 days of initial seizure, or a court of law determines that the reptile is not being owned, possessed, used, transported, or trafficked in violation of this Article, then it shall be the duty of ~~such~~ the law enforcement officer ~~officers~~ to return the ~~said reptiles~~ reptile or reptiles to the person from whom they were seized within ~~five~~ 15 days.

"§ 14-420. Arrest of persons violating provisions of Article.

If ~~the~~ an examination ~~and tests~~ made by the North Carolina State Museum of Natural Sciences or the North Carolina Zoological Park or ~~its~~ their designated representatives~~representative as provided herein show~~ conducted pursuant to this Article shows that ~~such reptiles are dangerously poisonous,~~ the reptile is a venomous reptile, large constricting snake, or crocodilian subject to this Article, it shall be the duty of the ~~officers~~ officer making the seizure with probable cause to believe that the reptile is being owned, possessed, used, transported, or trafficked in violation of this Article,~~seizure,in addition to destroying such reptiles, also~~ to arrest all persons violating any of the provisions of this Article.

"§ 14-421. Exemptions from provisions of Article.

This Article shall not apply to the possession, exhibition, or handling of reptiles by employees or agents of duly constituted veterinarians, zoos, serpentariums, museums, laboratories, educational or scientific institutions, public and private, in the course of their educational or scientific ~~work.~~work, or Wildlife Damage Control Agents in the course of the work for which they are approved by the Wildlife Resources Commission.

"§ 14-422. ~~Violation made misdemeanor.~~ Criminal penalties and civil remedies for violation.

(a) Any person violating any of the provisions of this Article shall be guilty of a Class 2 misdemeanor.

(b) If any person, other than the owner of a venomous reptile, large constricting snake, or crocodilian, the owner's agent, employee, or a member of the owner's immediate family, suffers a life threatening injury or is killed as the result of a violation of this Article, the owner of the reptile shall be guilty of a Class 1 misdemeanor. This subsection shall not apply to violations that result from incidents that could not have been prevented or avoided by the owner's exercise of due care or foresight, such as natural disasters or other acts of God, or in the case of thefts, of the reptile from the owner.

(c) Any person intentionally releasing into the wild a nonnative venomous reptile, a large constricting snake, or a crocodilian shall be guilty of a Class 1 misdemeanor.

(d) Violations of this Article as set forth in subsections (b) or (c) of this section shall constitute wanton conduct within the meaning of G.S. 1D-5(7) and subject the violator to punitive damages in any civil action that may be filed as a result of the violator's actions."

SECTION 2. This act becomes effective December 1, 2009, and applies to offenses committed on or after that date.

SENATE BILL 307:
Regulate Ownership & Use of Certain Reptiles

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	July 2, 2009
Introduced by:	Sen. Jones	**Prepared by:**	Jennifer McGinnis
Analysis of:	Second Edition		Committee Counsel

SUMMARY: ***Senate Bill 307 expands and clarifies Article 55 of Chapter 14 of the General Statutes, which governs the handling of poisonous reptiles. The bill would add large constricting snakes and crocodilians (with the exception of the American alligator) to the provisions of the Article. It would also: (i) provide that negligent exposure, in addition to intentional exposure, of others to regulated reptiles constitutes a violation under the Article; (ii) provide additional requirements for caging and safety protocols associated with these reptiles; (iii) clarify the process upon seizure of a regulated reptile; (iv) add new penalties and remedies for violations of the Article; and (v) make other technical, clarifying, and conforming changes.***

CURRENT LAW: Article 55 of Chapter 14 of the General Statutes, "Handling of Poisonous Reptiles", provides that it is unlawful for any person to:

- Own, possess, use, or traffic in any reptile of a poisonous nature whose venom is not removed unless the reptile is kept securely in a box, cage, or safe container without openings that would allow for escape or the biting of humans.
- Intentionally handle any reptile of a poisonous nature whose venom is not removed with bare hands or by holding the reptile against any exposed part of the body or by placing one's hand (or other part of the anatomy), or that of another person's, near any container housing a poisonous reptile.
- Induce others to handle reptiles of a poisonous nature.

The statute also provides that law enforcement or animal control officers with reasonable grounds to believe a violation of the Article exists must immediately investigate the violation, seize the reptile involved, and deliver the reptile to the State Museum of Natural Sciences, or its designee, to examine the reptile in order to ascertain whether the reptile is poisonous. If the Museum determines the reptile is dangerously poisonous, the Museum is empowered to dispose of the reptile in a manner consistent with public safety and law enforcement is directed to arrest the person from whom the reptile was seized. If the Museum determines the reptile is not venomous, the statute provides for return of the reptile to the person from whom the reptile was seized.

The statute provides that violations of the Article are punishable as a Class 2 misdemeanor.

Museums, laboratories, educational and scientific institutions are exempted from the provisions of the Article.

BILL ANALYSIS: Senate Bill 307 would expand and clarify the existing laws regulating the possession of venomous reptiles. The bill:

- Adds large constricting snakes (as listed in the bill) and all crocodilians (except the American alligator, which is already regulated by the State's Wildlife Resources Commission (WRC)) to coverage under the Article.
- Provides that negligent exposure of others to regulated reptiles, in addition to intentional exposure, constitutes a violation under the Article.
- Prohibits the transport (in addition to owning, possessing, using, or trafficking) of the regulated reptiles except in compliance with the Article's requirements.
- Provides additional requirements for caging and associated protocols as follows:
  - Venomous reptiles -- Permanent enclosures designed to be escape-proof, bite-proof, and have an operable lock; transport containers designed to be escape and bite-proof. Enclosures must be clearly labeled as containing such a reptile, with identifying anti-venom information. Written bite protocols and an escape recovery plan must be located in sight of the permanent housing and a copy must accompany transport of the reptile.
  - Large constricting snakes -- Permanent enclosures designed to be escape-proof and have an operable lock; transport containers designed to be escape-proof. Written safety protocols and escape recovery plans must be kept within sight of a permanent enclosure and accompany transport
  - Crocodilians -- Permanent enclosures designed to be escape-proof, have a fence of sufficient strength, and have an operable lock; transport containers designed to be escape-proof. Written safety protocols and escape recovery plans must be kept within sight of a permanent enclosure and accompany transport

  Immediate notification of escape to law enforcement would be required in all cases.
- Prohibits handling of a regulated reptile in any manner that intentionally or negligently exposes another to unsafe contact with the reptile, or inducement of another to unsafe contact with the reptile.
- Changes the standard under which law enforcement may seize a regulated reptile from "reasonable grounds" to "probable cause".
- Provides that law enforcement officers seizing a reptile must deliver: (i) a reptile believed to be venomous to the State Museum of Natural Sciences; and, (ii) a reptile believed to be a large constricting snake or crocodilian to the Zoo for determination as to whether the reptile is one regulated by the Article. If the Museum or Zoo renders an affirmative determination, the Museum or Zoo must determine the final disposition of the reptile and law enforcement must arrest the person in violation of the Article. If the Museum or Zoo determines the reptile is not regulated under the Article, and either no criminal warrants or indictments are initiated in connection with the reptile within 10 days of seizure or a court determines that the reptile is not being handled in violation of the Article, the reptile must be returned to the person from whom it was seized.
- Adds veterinarians, zoos, serpentariums, and Wildlife Damage Control Agents to the list of entities exempt from the Article's provisions.
- Provides additional penalties/remedies: (i) the owner of a regulated animal would be guilty of a Class 1 misdemeanor if another person (other than owner, the owner's agent, employee, or member of the owner's immediate family) suffers a life threatening injury or is killed as a result of a violation of the Article. This provision would not apply to violations that result from

incidents that could not have been prevented or avoided by the owner's exercise of due care or foresight, such as natural disasters or other acts of God, or in the case of thefts of the reptile from the owner; (ii) a person would be guilty of a Class 1 misdemeanor for the intentional release of a nonnative regulated reptile into the wild; and (iii) in cases where violations of the Article result in a life threatening injury or death, or in the case of an intentional release into the wild, the violation would be deemed to constitute wanton conduct as defined under the statutes and subject the violator to punitive damages in any civil case filed as a result.

EFFECTIVE DATE: The bill would become effective December 1, 2009, and apply to offenses committed on or after that date.

S307-SMRI-70(e2) v1

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒Committee Substitute for

SB 307 A BILL TO BE ENTITLED AN ACT TO AMEND THE LAW REGULATING THE USE OF CERTAIN REPTILES.

☒ With a favorable report.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

July 2 , 2009

SPEAKERS: PLEASE SIGN IN BELOW

Name & Title	Representing (Agency/Company)	Bill #	Support/ Oppose
Andrew Wyatt	President USARK	SB-307	

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — July 2, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Edgar Miller	CTNC

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — July 2, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
R Rogers	CWMTF
Amy Schilder	MWC
Rick Zechini	NC Assoc. of Realtors
Jessie Hayes	NC HBA
Lisa Martin	
Cathy Hawks	

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — July 2, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Boyd Cauble	City of Charlotte
Cam Cowie	BPM&L
Adam Cecil	DLC Assoc.
Cameron Henly	Electri-Cities
Alicia De	MWC
Ellis Powell	NCDOT
Johanna Reese	
Christoph Hamard	NC ACC
Anthony Allon	NCACC
DAVID BARNES	Poyner Spruill
PGP	NCFB

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — July 2, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Leslie Arnold	SOG-Daily Bulletin
Andrew Wyatt	USARK
Steve Wall	DENR
Eric Galamb	DENR
Francis Rasberry	City of Raleigh City Attorney's Office
Kevin Davis	TNC
Dan Conrad	NCCN
Gradyn McClure	NCCN
Betsy McCorkle	CCNC
DAN CRAWFORD	CCNC
Paul Meyer	NCLM

HOUSE PAGES

NAME OF COMMITTEE Env. DATE 7-2-'09

1. Name: Macy Smith
   County: Davie
   Sponsor: Rep. Julia Howard
2. Name: Angela Vogler
   County: Forsyth
   Sponsor: Folwell
3. Name: Meredith Abernethy
   County: Forsyth
   Sponsor: Rep. Brown
4. Name: Ellen Williams
   County: Pitt
   Sponsor: Marian McLawhorn
5. Name: _____
   County: _____
   Sponsor: _____

SGT-AT-ARM

1. Name: Jaiusent Grant
2. Name: Earl Coker
3. Name: Gerald Perry
4. Name: James Worth

Martha Parnell

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

July 14, 2009

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Tuesday, July 14, 2009, in room 643 of the Legislative Office Building. Representative Lucy T. Allen presided. Members present were: Representatives Gillespie, Harrison, Justice, Tarleton, and Underhill Vice-Chairs; Representatives K. Alexander, Blackwood, Floyd, Gibson, Insko, Killian, Luebke, Martin, Samuelson, Tucker, and West.

Representative Allen called the meeting to order at 12:00 noon. She began by introducing the pages: John Bowman, Mecklenburg County (sponsored by Representative Martha Alexander); Anthony Heredia, Union County (sponsored by Representative Blackwood); Anna Plyler, Union County (sponsored by Representative Blackwood); and Sarah Scott, New Hanover County (sponsored by Representative McComas). She then recognized the Sergeant-at-arms staff assisting with the meeting: James Worth, Young Bae, David Shearon, Frank Prevo, Reggie Sills, and Carlton Adams.

The first item on the agenda was the Proposed Committee Substitute for HB 643 – A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE INJECTION OF RECLAIMED WATER INTO AN AQUIFER FOR TEMPORARY STORAGE. Representative Allen noted that this was the second time the committee had considered this bill, which was originally before the committee on April 28. She noted that presentations from interested parties, as well as questions and comments from committee members would be heard, but no vote taken on the bill today. Representative Tucker, the bill's sponsor, was recognized to present his bill. Jeff Pearson, Executive Director of Onslow Water and Sewer Authority, made a Power Point presentation (copy of information attached) explaining the need for the legislation. Many concerns and questions by committee members were presented to Mr. Pearson. Representative Grady, who represents Onslow County, was recognized to voice his opinions about the bill and to respond to some of the questions presented by committee members. Because of time constraints the bill was held over for additional presentations and discussion at the next meeting.

With no further business to come before the committee, the meeting was adjourned at 12:55 p.m.

Respectfully submitted,

Representative Lucy T. Allen, Chair

Shara Graham, Committee Assistant

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE MEETING

July 14, 2009
12:00 NOON
Room 643 LOB

Representative Lucy T. Allen, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

HB 743 - Authorize Aquifer Storage of Reclaimed Water
Primary Sponsor: Rep. Tucker

Presentation: Biofuels Center of North Carolina - Steven Burke, President

Presentation: James Merchant, visiting professor at UNC and expert on agriculture and confined animal feeding operations

ADJOURNMENT

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 643
PROPOSED COMMITTEE SUBSTITUTE H643-PCS11021-TA-31

Short Title: Study Reclaimed Water. (Public)

Sponsors:

Referred to:

March 18, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY ISSUES RELATED TO THE USE AND STORAGE OF RECLAIMED WATER.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Environmental Review Commission, in consultation with the Department of Environment and Natural Resources, may study issues related to the use and storage of reclaimed water. In its study, the Commission may examine the following issues:

(1) The feasibility and desirability of implementation of reclaimed water programs by municipal wastewater treatment facilities for nonconsumptive indoor use and outdoor use. The Commission may consider any of the following factors:
   a. The implementation and efficacy of reclaimed water policies, programs, ordinances, standards, rules, and regulations established in other states, municipalities, and countries.
   b. Minimum effluent standards for reclaimed water sufficient to address any public health, safety, or environmental risks that may be caused by use of or contact with reclaimed water.
   c. Potential uses for reclaimed water for nonconsumptive indoor use including, but not limited to: toilet flushing; fire protection; and decorative water features.
   d. Potential uses for reclaimed water for outdoor use including, but not limited to: commercial and residential landscaping, lawn irrigation, agricultural irrigation; wetland and stream augmentation; and planned direct or indirect potable reuse.

(2) The feasibility and desirability of storage of reclaimed water in aquifers by municipal wastewater treatment facilities. The Commission may consider any of the following factors:
   a. Whether the current practice of land application of wastewater by municipal wastewater treatment facilities requires too much land to be practicable in the long term.
   b. Whether the current practice of land application of wastewater by municipal wastewater treatment facilities is better suited to certain parts of the State or to areas of certain geological or topographical conditions.

c. Whether there are any alternative methods of disposing of wastewater by municipal wastewater treatment system facilities and the costs and benefits of employing any such alternative methods either on a statewide basis or in any specific area of the State.

(3) Whether reclaimed water can be safely stored in and recovered from aquifers. The Commission may consider any of the following factors:

a. The benefits and costs of using reclaimed water in aquifers for use as a barrier to saltwater intrusion.

b. Whether current federal or State laws, including the Underground Injection Control Program of the federal Safe Drinking Water Act and current regional or watershed-based water management strategies, apply to aquifer storage and recovery in North Carolina and are sufficient to address any public health, safety, or environmental risks that may be caused by aquifer storage and recovery.

c. Regulations necessary to assure the protection of public health, safety, and the environment if storage of reclaimed water in aquifers is determined to be in the best interest of the State.

d. Any other topics the Commission deems appropriate to assure that aquifer storage and recovery systems will not be a detriment to public health, safety, or the environment.

(4) Such other matters as the Commission deems appropriate in the conduct of this study.

SECTION 1.(b) The Environmental Review Commission may make an interim report to the 2009 General Assembly, 2010 Regular Session and may submit a final report, including findings and recommendations, to the 2011 General Assembly on or before its convening.

SECTION 2.(a) The Department of Environment and Natural Resources and the Department of Administration may jointly study the benefits and costs of State government facilities using reclaimed water in lieu of other water resources.

SECTION 2.(b) The Department of Environment and Natural Resources and the Department of Administration may submit an interim report to the Environmental Review Commission on or before the convening of the 2010 Regular Session of the 2009 General Assembly and may submit the final report and any recommendations to the Commission on or before the convening of the 2011 General Assembly.

SECTION 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 643
PROPOSED COMMITTEE SUBSTITUTE H643-CSSBf-12 [v.6]

7/15/2009 5:40:33 PM

Short Title: Authorize Aquifer Storage of Reclaimed Water. (Public)

Sponsors:

Referred to:

March 18, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE INJECTION OF RECLAIMED WATER INTO AN AQUIFER FOR TEMPORARY STORAGE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-213 reads as rewritten:

"**§ 143-213. Definitions.**

Unless the context otherwise requires, the following terms as used in this Article and Articles 21A and 21B of this Chapter are defined as follows:

...

(8a) The term "beneficial reuse" in reference to reclaimed water means a use that protects the environment through the efficient allocation and conservation of the potable water, groundwater, and surface water resources of the State.

...

(13a) The term "reclaimed water" means tertiary treated wastewater of a quality that will enable the water to be used for a beneficial reuse."

SECTION 2. G.S. 143-214.2(b) reads as rewritten:

"(b) The discharge of any wastes to the subsurface or groundwaters of the State by means of wells is prohibited. This section shall not be construed to prohibit the operation of any of the following:

(1) ~~closed-loop~~A closed-loop groundwater remediation ~~systems~~ system in accordance with G.S. 143-215.1A.

(2) An injection well as part of a reclaimed water aquifer storage and recovery system in accordance with G.S. 143-215.1D."

SECTION 3. G.S. 143-215.1(a) reads as rewritten:

"(a) Activities for Which Permits Required. – No person shall do any of the following things or carry out any of the following activities unless that person has received a permit from the Commission and has complied with all conditions set forth in the permit:

...

(13) Construct, use, or operate any injection well for the purpose of control of sources of water pollution.

(14) Alter, extend, or change the construction or method of operation of any injection well for the purpose of control of sources of water pollution."

SECTION 4. G.S. 143-215.1(d) reads as rewritten:

"(d) Applications and Permits for Sewer Systems, Sewer System ~~Extensions and~~Extensions, Pretreatment Facilities, Land Application of Waste, Injection Wells for the purpose of control of sources of water pollution, and ~~for~~ Wastewater Treatment Facilities Not Discharging to the Surface Waters of the State. –

(1) All applications for new permits and for renewals of existing permits for sewer systems, sewer system ~~extensions and for~~extensions, disposal systems, ~~and for~~ land application of waste, ~~or~~ injection wells for the purpose of control of sources of water pollution, and treatment works ~~which~~ that do not discharge to the surface waters of the State, and all permits or renewals and decisions denying any application for permit or renewal shall be in writing. The Commission shall act on a permit application as quickly as possible. The Commission may conduct any inquiry or investigation it considers necessary before acting on an application and may require an applicant to submit plans, specifications, and other information the Commission considers necessary to evaluate the application. If the Commission fails to act on an application for a permit, including a renewal of a permit, within 90 days after the applicant submits all information required by the Commission, the application is considered to be approved. Permits and renewals issued in approving such facilities pursuant to this subsection shall be effective until the date specified therein or until rescinded unless modified or revoked by the Commission. Local governmental units to whom pretreatment program authority has been delegated shall establish, maintain, and provide to the public, upon written request, a list of pretreatment applications received.

(2) An applicant for a permit to dispose of petroleum contaminated soil by land application shall give written notice that he intends to apply for such a permit to each city and county government having jurisdiction over any part of the land on which disposal is proposed to occur. The Commission shall not accept such a permit application unless it is accompanied by a copy of the notice and evidence that the notice was sent to each such government by certified mail, return receipt requested. The Commission may consider, in determining whether to issue the permit, the comments submitted by local governments."

SECTION 5. Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-215.1D. Reclaimed water aquifer storage and recovery systems allowed.**

(a) As used in this section, "reclaimed water aquifer storage and recovery system" means a system and attendant process for the injection of reclaimed water into an aquifer for temporary storage followed by recovery and beneficial reuse of the water.

(b) The Secretary may issue a permit for the siting, construction, and operation of a reclaimed water aquifer storage and recovery system in an aquifer, or portion thereof, with groundwater having a naturally occurring concentration of total dissolved solids that exceeds 10,000 mg/l. Permits shall be issued in accordance with G.S. 143-215.1 and applicable rules of the Commission.

(c) A permit for a reclaimed water aquifer storage and recovery system shall specify the location and depth at which reclaimed water is to be injected and shall specify design, construction, operation, and well abandonment requirements for the reclaimed water aquifer storage and recovery system necessary to ensure that the treated reclaimed water will be captured by the recovery system. The Secretary may impose any additional permit conditions or limitations necessary to:

(1) Specify or limit the distance between the point at which reclaimed water is injected into the groundwater and the point at which reclaimed water is recovered for beneficial reuse.
(2) Specify the minimum or maximum gradients between the point at which reclaimed water is injected into the groundwater and the point at which reclaimed water is recovered for beneficial reuse.
(3) Ensure that, at the point of injection, the reclaimed water meets standards adopted by the Environmental Management Commission as necessary to protect groundwater resources.
(4) Ensure that, after recovery and prior to distribution, the reclaimed water meets standards adopted by the Environmental Management Commission for reclaimed water effluent.
(5) Protect the environment, natural resources, or public health consistent with this Article.

(d) The Commission shall adopt rules to implement this section."

SECTION 6. G.S. 143-215.3D(a) reads as rewritten:

"(a) Annual fees for discharge and nondischarge permits under G.S. 143-215.1. –

(1) Major Individual NPDES Permits. – The annual fee for an individual permit for a point source discharge of 1,000,000 or more gallons per day, a publicly owned treatment works (POTW) that administers a POTW pretreatment program, as defined in 40 Code of Federal Regulations § 403.3 (1 July 1996 Edition), or an industrial waste treatment works that has a high toxic pollutant potential is three thousand four hundred forty dollars ($3,440).
(2) Minor Individual NPDES Permits. – The annual fee for an individual permit for a point source discharge other than a point source discharge to which subdivision (1) of this subsection applies is eight hundred sixty dollars ($860.00).
(3) Single-Family Residence. – The annual fee for a certificate of coverage under a general permit for a point source discharge or an individual nondischarge permit from a single-family residence is sixty dollars ($60.00).
(4) Stormwater and Wastewater Discharge General Permits. – The annual fee for a certificate of coverage under a general permit for a point source discharge of stormwater or wastewater is one hundred dollars ($100.00).
(5) Recycle Systems. – The annual fee for an individual permit for a recycle system nondischarge permit is three hundred sixty dollars ($360.00).
(6) Major Nondischarge Permits. – The annual fee for an individual permit for a nondischarge of 10,000 or more gallons per day or requiring 300 or more acres of land is one thousand three hundred ten dollars ($1,310).
(7) Minor Nondischarge Permits. – The annual fee for an individual permit for a nondischarge of less than 10,000 gallons per day or requiring less than 300 acres of land is eight hundred ten dollars ($810.00).
(8) Animal Waste Management Systems. – The annual fee for animal waste management systems is as set out in G.S. 143-215.10G.
(9) Major Reclaimed Water System Permits. – The annual fee for an individual permit for a reclaimed water system of 10,000 or more gallons per day shall be one thousand three hundred ten dollars ($1,310).
(10) Major Reclaimed Water System Permits with Reclaimed Water Aquifer Storage and Recovery systems. – The annual fee for an individual permit for a reclaimed water system with reclaimed water aquifer storage and recovery system of 10,000 or more gallons per day of reclaimed water generated,

stored, or utilized shall be two thousand one hundred twenty dollars ($2,120).

(11) Minor Reclaimed Water System Permits. – The annual fee for an individual permit for a reclaimed water system of less than 10,000 gallons per day shall be eight hundred ten dollars ($810).

(12) Minor Reclaimed Water Permits with Reclaimed Water Aquifer Storage and Recovery Systems. – The annual fee for an individual permit for a reclaimed water system with reclaimed water aquifer storage and recovery system of less than 10,000 gallons per day of reclaimed water generated, stored, or utilized shall be one thousand six hundred twenty dollars ($1,620).

(13) In-situ Groundwater Remediation Injection Well Permits. – The annual fee for an individual permit for an injection well or well system shall be eight hundred ten dollars ($810).

(14) Reclaimed Water Aquifer Storage and Recovery Injection Systems. – The annual fee for an individual permit for a reclaimed water aquifer storage and recovery well system shall be eight hundred ten dollars ($810)."

SECTION 7. This act is effective when it becomes law.

HOUSE BILL 643:
Authorize Aquifer Storage of Reclaimed Water

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	July 16, 2009
Introduced by:	Rep. Tucker	**Prepared by:**	Jeff Hudson Committee Counsel
Analysis of:	PCS to First Edition H643-CSSBf-12 [v.6]		

SUMMARY: ***The Proposed Committee Substitute (PCS) for House Bill 643 would authorize the issuance of permits for the siting, construction, and operation of reclaimed water aquifer storage and recovery systems, which inject reclaimed water into an aquifer for temporary storage followed by recovery and beneficial reuse of the water.***

CURRENT LAW:

Under current law, the injection of reclaimed water to the subsurface or groundwaters of the State by means of a well is prohibited.

BILL ANALYSIS:

The PCS would authorize the issuance of permits for the siting, construction, and operation of reclaimed water aquifer storage and recovery systems for temporary storage of reclaimed water followed by recovery and beneficial reuse of the water. The PCS would allow the injection of reclaimed water into ~n aquifer, or portion thereof, with groundwater having a naturally occurring concentration of total issolved solids that exceeds 10,000 mg/l. Injection of the reclaimed water.

Permits for reclaimed water aquifer storage and recovery systems must contain certain information and may contain various conditions or limitations. Permit fees are based on the type and capacity of the system.

The bill would also make a number of conforming changes to water quality statutes.

EFFECTIVE DATE:

The PCS would be effective when it becomes law.

House Bill 643
Aquifer Storage of Reclaimed Water

Environment & Natural Resources Committee

Jeff Pearson

Executive Director

Onslow Water & Sewer Authority

July 14, 2009

ONWASA

House Bill 643
Aquifer Storage of Reclaimed Water

- What is an ASR Well?
- What is Reclaimed Water?
- What are the benefits of an ASR Well?
- Is it being used anywhere else?
- What can be accomplished?

ONWASA

What is a Reclaim ASR Well?

1. Similar to a water production well.
2. Well is capable of bi-directional flow.
3. ASR Test/Monitoring wells are constructed first.
4. ASR wells used as part of initial testing and operation.
5. Continuous analysis of monitoring wells and ASR wells.
6. ASR Wells store water in winter and provide irrigation water in summer and shave peaks.

ONWASA

What is Reclaimed Water?

- Reclaimed water is "tertiary" treated water.
- The EPA's (UIC) program requires that any water injected into the ground or aquifer that contains ambient groundwater with a total dissolved solids concentration less than 10,000 (mg/l) shall have a recharge water quality meeting federal primary drinking water standards. Primary drinking water standards pertain to health.
- Water must be used for beneficial purposes.

ONWASA

Coastal NC Water Rules...

1. Get out of the Black Creek Aquifer.
2. Don't get saltwater in your well.

ONWASA

Benefits of ASR Wells

- Store millions of gals of valuable non-potable water
- Conserve limited resources (Land, Water & Capital)
- Can reduce public supply demand on aquifers
- Shave summer water demand peaks
- Delay future water facility expansions
- Conservation minded-Green technology.

ONWASA

Why an ASR Well

- Economics
  - Surface Storage Costs 3 to 10 X more than ASR Storage
  - Uses substantially less land
- Environmental Benefits
  - Reduces stress on aquifers and streams
  - Promotes compliance with CCPCUA Rule

ONWASA

Proven Success

- ASR for Reclaimed Water

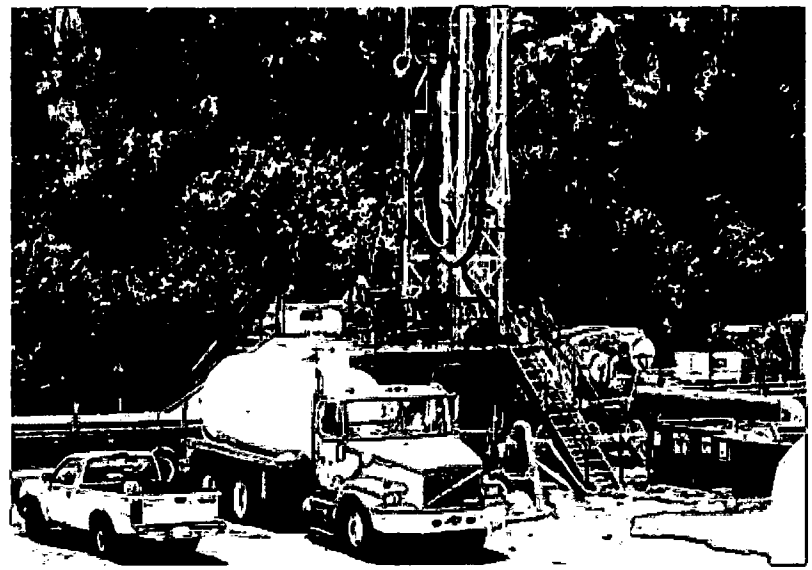
  Arizona – 5

  Texas – 1

  Florida – 2 (1 in operation)

  South Carolina – 2 (Planned)

  New Jersey – 1 (Planned)



ONWASA

What can be accomplished

- Beneficial use of reclaimed water
- Protect limited coastal water resources
- Minimize use of land for wastewater disposal that is suitable for farming and development
- Help to minimize the impact of future droughts

ONWASA

Jacksonville Daily News

April 20, 2009

Poll shows support storage of wastewater in aquifers

In an unscientific poll of Daily News readers, there appears to be some support for state legislation that would permit the storage of treated wastewater in aquifers.

Legislation to allow the practice, which is now in the General Assembly, is opposed by environmental groups who have doubts about the technology and have concerns about potential for danger to drinking water. Proponents say the science has proved successful elsewhere and the process would lessen the need for more land for spray fields.

In a Daily News online poll at www.jdnews.com, 66 percent of 164 readers say they supported the bill, while 34 percent were against it.

Online Poll

RESULTS

Something in the water

Do you think the idea of injecting treated wastewater into aquifers, as proposed in the state House, will work?

66% Yes.

34% No.

Total votes: 164

To vote in future Daily News polls go to www.jdnews.com

ONWASA

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — July 14, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
L. Andrews	NCFB
Paul Sherman	NCFB
[illegible]	NC Pork Council
[illegible]	[illegible]
Angie Whitfield	NCPC
T.K.	T.K. & Assoc.
Tommy Stevens	NCPC
Steve Metcalf	NCPC
TYLER NEWMAN	BASF
George Wisneskey	Oriental, NC
Joanne Somerday	NRF

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — July 14, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Alyn Goodson	WCSR - Raleigh
Nathan Cooper	WCSR-Raleigh
Tyler Shipman	Clean water for NC - Durham
Jessica Barnwell	Clean Water for NC - Durham
Hope Taylor	Clean Water for NC
Jason Fine	US Geological Survey
Kristen McSwain	US Geological Survey
Bettie J. Powell	Open mind Senior - CCT, Tillery
Doretha Whitfield	open mind Senior - CCT, Tillery
Naeema Muhammad	P. O. Box 61, Tillery, NC 27887 NC Environmental Justice Network
Sarah Hatcher	REACH, NCEJN Warsaw, NC, Tillery, NC

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — July 14, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Doug Springer	Cape Fear River Watch
Dan Young	Neuse Riverkeeper Foundation
Bettie M Edmonds	Tillery, NC. D.M.S.
Kim Hibbard	NCLM
Patricia Peterson	Open Minded Seniors of Tillery, NC
Ralph Mullis	RCAED
Mike Giles	NC Coastal Federation
Heather Deck	~~TAEP~~ PTRF
Undean P. Debrosd	D.M.S: Tillery
Susan Sturgis	Institute for Southern Studies
Chauncey Harris	D.M.S. Tillery
Robert Taylor	WCSR - Raleigh
Leigh Phillips	WCSR - Raleigh
A	

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — July 14, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Upton Hatch	no affiliation
Ronald Shields	Tillery - Senior Citizen
Ray Hayward	Tillery Concerned Citizen
Alicia Dow	MWC
[illegible]	NCPCM
Colleen Kochat	KLG
[illegible] D.	Gov. Office
Sonny S. Haynes	WCSR - Raleigh
Preston Howard	MCIC
Nancy Thompson	weyerhaeuser
Jessi Hays	NC Home Builders Assn

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — July 14, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Doug Lassiter	NCSTA
Steve Burke	Biofuels Center of North Carolina
Ashley Jones	Biofuels Ctr of NC
Drew Jones	House Intern
Richard Whitswarts	UNC SOG
Don Safrit	McKim & Creed NC AWWA WEA PEMC
Ed Eudy	BP
Thom Moore	Fuhrman : Cabot
Jack Loftis	Womble
JH Merchant	Univ. of NCWA + UNC
Steve Wing	UNC-CH

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — July 14, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Brian G Moy	Environment NC
Larry Baldwin	Lower Neuse Riverkeeper Neuse Riverkeeper Foundation
Devon J. Hall Sr	Rural Empowerment Association
Brian Westcott	Program Coordinator Neuse Riverkeeper Foundation
Matt Horvath	TPO
Emily Wilbourne	TPO
John Goodman	NC Chamber

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — July 14, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mark R. Johnson	WCSR - Raleigh
Jessalee Landfried	NC Conservation Network - Raleigh
Almira Mowrey	NCCN
TODD MILLER	NCCF
GLENN BROWN	OMS
Levy + BETTY White	OMS TILLERY, N.C.
Kelly Blandford	Duke Nicholas Institute
AMY PICKLE	NICHOLAS INSTITUTE @ DUKE UNIVERSITY
TESS SANDERS	WHITE OAK - NEW RIVERKEEPER
CARY WHITE JR.	OMS TILLERY, N.C.
DAVID MCKAY	BREDL

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — July 14, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Susan Ashton	BREDL PO Box 44 Shawboro, NC 27340
Minnie Richardson	P.O.Box 247 Halifax, N.C. 27839
Maggie Wilkins	1423 Green Acres Rd Enfield, N.C. 27823
Gordon McCallie	NC Conservation Network.
Trey Pentuff	WRSP - Raleigh.
Dan Crawford	CCM
Will Snyder	CTNC
Sarah Clapp	NCWRC
Elizabeth Biser	DENR
Betsy McCorkle	CCNC
Don Webb	NRSI
Tom Bean	NC EDF, NCWF

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — July 14, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Dow Evans	NC DENR
Ted Bush	NCDENR/DWQ
Coleen H. Sullins	NCDENR/DWQ
Glenn Sappie	NC DENR/DAQ
Steve Wall	DENR
Dan Courad	NCCN
Jon Risgaard	NCDENR/DWQ
Lori Montgomery	NC DENR/DWQ/APS
Thomas Slusser	NDENR-DWQ-APS
Katrina English	NCCN
Megan Barker	WKSR-Raleigh

HOUSE PAGES

ENVIRONMENT & NATURAL RESOURCES
NAME OF COMMITTEE _____ DATE 7-14-09

1. Name: John Bauman
   County: Mecklenburg
   Sponsor: Rep. Martha Alexander
2. Name: Anthony Heredia
   County: Union
   Sponsor: Rep Blackwood
3. Name: Anna Pixler
   County: Union
   Sponsor: rep. Curtis Blackwood
4. Name: Sarah Scott
   County: New Hanover
   Sponsor: McComas
5. Name: _____
   County: _____
   Sponsor: _____

SGT-AT-ARM

1. Name: James Worth - Young Bae
2. Name: David Shearon - Frank Prevo
3. Name: Reggie Sills
4. Name: Carlton Adams

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

July 16, 2009

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Thursday, July 16, 2009, in room 643 of the Legislative Office Building. Representative Lucy T. Allen presided. Members present were: Representatives Gillespie, Harrison, Justice, Tarleton, and Underhill Vice-Chairs; Representatives K. Alexander, Blackwood, Floyd, Insko, Killian, Luebke, Martin, McComas, McElraft, Samuelson, Tucker, West, and Womble.

Representative Allen called the meeting to order at 12:00 noon. She began by introducing the pages: Caylin Bullock, Wake County (sponsored by Speaker Hackney); Logan Brawley, Forsyth County (sponsored by Representative McGee); Kayla Hollingsworth, Randolph County (sponsored by Representative Hurley); Madison Parker, Johnston County (sponsored by Representative Langdon); and Jake Toompas, Forsyth County (sponsored by Representative Stam). She then recognized the Sergeant-at-arms staff assisting with the meeting: Bob Rossi, Earl Coker, James Worth, David Shearon, and Frank Prevo.

The first item on the agenda was the continuing discussion of the Proposed Committee Substitute for HB 643 – A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE INJECTION OF RECLAIMED WATER INTO AN AQUIFER FOR TEMPORARY STORAGE. Representative Allen noted that this bill had been before the committee at the July 14 meeting. Representative Allen asked if there were any persons present who wished to speak on the bill. There being none, Representative Tucker, the bill's sponsor, came forward with a request that the bill be removed from the day's agenda.

The next item on the agenda was House Committee Substitute for Senate Bill 1004 - A BILL TO BE ENTITLED AN ACT TO EXTEND BY ONE YEAR A COMPLIANCE DATE FOR SULFUR DIOXIDE EMISSION REDUCTIONS FOR INVESTOR-OWNED PUBLIC UTILITIES THAT CONVERT COAL-FIRED GENERATING UNITS TO UNITS THAT USE ONLY NATURAL GAS AS FUEL. Representative Harrison was recognized to handle the bill in the absence of Senator Hoyle, the bill's primary sponsor. A second proposed committee substitute was placed before the committee by unanimous approval of a motion presented by Representative Tarleton. Following Representative Harrison's remarks, Representative Allen opened the floor for questions and comments from committee members. Two speakers had requested permission to speak on the bill. Representative Allen recognized Sharon Miller, Executive Director of Carolina Utility Customers' Association, who spoke of concerns her organization had and areas of the bill that the organization opposes. She said she hoped remaining differences could be worked out before a vote on a final version of the bill. The second speaker was Molly Diggins, Executive Director of the Sierra Club, also representing Environmental Defense Fund, North Carolina Conservation Network, and North Carolina Sustainable Energy Association. She expressed appreciation for involvement in the development of the bill. She indicated that, as the bill was currently written, her organizations did not have a position on, merely an active interest in the

proposed legislation. At this time, Representative Harrison presented an amendment to the bill. She indicated that the amendment would change the title of the bill and clarify a remaining area of concern. Representative Floyd made a motion for approval of the amendment. This motion passed without objection. Following more questions from committee members, Representative Tarleton made a motion for a favorable report for House Committee Substitute Bill number 2, unfavorable to House Committee Substitute number 1. This motion received unanimous approval.

With no further business to come before the committee, the meeting was adjourned at 12:40 p.m.

Respectfully submitted,

Representative Lucy T. Allen, Chair

Shara Graham, Committee Assistant

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE MEETING

July 16, 2009
12:00 NOON
Room 643 LOB

Representative Lucy T. Allen, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

HB 643 - Authorize Aquifer Storage of Reclaimed Water
Primary Sponsor: Rep. Tucker

SB 1004 - Extend Deadline/Natural Gas Conversion
Primary Sponsor: Sen. Hoyle

ADJOURNMENT

S 3

SENATE BILL 1004*
Commerce Committee Substitute Adopted 5/7/09
House Committee Substitute Favorable 7/8/09

Short Title: Extend Deadline/Natural Gas Conversion. (Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO EXTEND BY ONE YEAR A COMPLIANCE DATE FOR SULFUR DIOXIDE EMISSION REDUCTIONS FOR INVESTOR-OWNED PUBLIC UTILITIES THAT CONVERT COAL-FIRED GENERATING UNITS TO UNITS THAT USE ONLY NATURAL GAS AS FUEL.

The General Assembly of North Carolina enacts:

SECTION 1. The General Assembly makes the following findings:

(1) The conversion of coal-fired generating units to generating units that use only natural gas as fuel will reduce emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) more than would the installation of sulfur dioxide (SO2) emissions controls on the coal-fired generating units.

(2) The conversion of coal-fired generating units to generating units that use only natural gas as fuel will reduce emissions of carbon dioxide (CO2) and mercury (Hg) significantly more than would the installation of sulfur dioxide (SO2) emissions controls on the coal-fired generating units.

SECTION 2. G.S. 143-215.107D reads as rewritten:

"**§ 143-215.107D. Emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) from certain coal-fired generating units.**

...

(e) ~~An~~ Except as provided in subsection (e1) of this section, an investor-owned public utility that owns or operates coal-fired generating units that collectively emitted 225,000 tons or less of sulfur dioxide (SO2) in calendar year 2000:

(1) Shall not collectively emit from the coal-fired generating units that it owns or operates more than 100,000 tons of sulfur dioxide (SO2) in any calendar year beginning 1 January 2009.

(2) Shall not collectively emit from the coal-fired generating units that it owns or operates more than 50,000 tons of sulfur dioxide (SO2) in any calendar year beginning 1 January 2013.

(e1) An investor-owned public utility that owns or operates coal-fired generating units that collectively emitted 225,000 tons or less of sulfur dioxide (SO2) in calendar year 2000 may delay compliance with subdivision (2) of subsection (e) of this section until 1 January 2014 if the investor-owned public utility demonstrates to the Commission that it will convert one or more coal-fired generating units that it owns or operates on 1 July 2009 and on which sulfur dioxide (SO2) emission controls have not been installed to generating units that use only natural gas as fuel to the extent necessary to achieve compliance with subdivision (2) of subsection (e) of this section by 1 January 2014.

...."

SECTION 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 1004*
Commerce Committee Substitute Adopted 5/7/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1004-CSSB-67 [v.8]

Short Title: Amend Certain Electricity Generation Laws. (Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO EXTEND BY ONE YEAR A COMPLIANCE DATE FOR SULFUR DIOXIDE EMISSION REDUCTIONS FOR INVESTOR-OWNED PUBLIC UTILITIES THAT INSTALL GENERATING UNITS THAT USE NATURAL GAS AS FUEL AND RETIRE COAL-FIRED GENERATING UNITS, TO PROVIDE FOR RETENTION OF FUEL AND FUEL-RELATED COST SAVINGS ASSOCIATED WITH THE PURCHASE OR CONSTRUCTION OF A CARBON OFFSET FACILITY, AND TO BRING CERTAIN DAMS USED IN CONNECTION WITH ELECTRIC GENERATING FACILITIES UNDER THE DAM SAFETY ACT.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The General Assembly makes the following findings:

(1) In 2002, North Carolina enacted S.L. 2002-4, the Clean Smokestacks Act, with the goal of improving air quality in the State.

(2) With the enactment of the Clean Smokestacks Act, North Carolina became a national leader in multi-pollutant air emissions reduction strategies and has experienced significant reductions in oxides of nitrogen (NOx) and sulfur dioxide (SO2), and, as a co-benefit, mercury.

(3) Duke Energy and Progress Energy, the investor-owned public utilities governed by the Clean Smokestacks Act, actively participated in the negotiations that led to the enactment of the Clean Smokestacks Act and recommended substantial emissions reductions requirements and an aggressive timeline for achieving compliance with those requirements.

(4) Both Duke Energy and Progress Energy have produced emissions reductions greater than and sooner than required by the Clean Smokestacks Act.

(5) The retirement of coal-fired generating units and installation of generating units that use natural gas as the primary fuel will reduce emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) more than would the installation of sulfur dioxide (SO2) emissions controls on the coal-fired generating units.

(6) The retirement of coal-fired generating units and installation of generating units that use natural gas as the primary fuel will reduce emissions of carbon dioxide (CO2) and mercury (Hg) significantly more than would the installation of sulfur dioxide (SO2) emissions controls on the coal-fired generating units.

(7) The retirement of coal-fired generating units that are owned and operated by Progress Energy and located in eastern North Carolina and the installation of generating units that use natural gas as their primary fuel to replace them will reduce emissions of oxides of nitrogen (NOx), sulfur dioxide (SO2), carbon dioxide (CO2), and mercury (Hg) more than would the installation of sulfur dioxide (SO2) emissions controls on the older coal-fired generating units.

(8) The retirement of coal-fired generating units that are owned and operated by Progress Energy and located in eastern North Carolina and the installation of generating units that use natural gas as their primary fuel to replace them will take up to one year more than would the installation of sulfur dioxide (SO2) emissions controls on the older coal-fired generating units.

(9) In order to promote cleaner air for the citizens of the State, it is in the interest of the State to provide a single, one-year extension of a compliance deadline to Progress Energy so that it may retire one or more coal-fired generating units and install one or more generating units that use natural gas as their primary fuel to replace them.

SECTION 1.(b) G.S. 143-215.107D reads as rewritten:

"**§ 143-215.107D. Emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) from certain coal-fired generating units.**

...

(e) ~~An~~ Except as provided in subsection (e1) of this section, an investor-owned public utility that owns or operates coal-fired generating units that collectively emitted 225,000 tons or less of sulfur dioxide (SO2) in calendar year 2000:

(1) Shall not collectively emit from the coal-fired generating units that it owns or operates more than 100,000 tons of sulfur dioxide (SO2) in any calendar year beginning 1 January 2009.

(2) Shall not collectively emit from the coal-fired generating units that it owns or operates more than 50,000 tons of sulfur dioxide (SO2) in any calendar year beginning 1 January 2013.

(e1) An investor-owned public utility that owns or operates coal-fired generating units that collectively emitted 225,000 tons or less of sulfur dioxide (SO2) in calendar year 2000 may delay compliance with subdivision (2) of subsection (e) of this section until the calendar year beginning 1 January 2014 if the investor-owned public utility demonstrates to the Commission that it will install generating units that use natural gas as the primary fuel at one or more coal-fired generating units that it owns or operates on 1 July 2009 and will permanently cease operations at all coal-fired units at one or more facilities in North Carolina that are not operated with flue gas desulfurization devices. An investor-owned public utility that seeks compliance pursuant to this subsection shall submit a revised verified statement required pursuant to G.S. 62-133.6(i) when it files with the Utilities Commission a certificate of convenience and necessity for a generating unit that uses natural gas as the primary fuel.

...."

SECTION 2. Article 7 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"**§ 62-133.10. Retention of fuel and fuel-related cost savings associated with the purchase or construction of a carbon offset facility.**

(a) The Commission shall permit an electric public utility that purchases or constructs a carbon offset facility to adjust its fuel and fuel-related costs in G.S. 62-133.2 to retain the North Carolina retail allocation of the system fuel and fuel-related cost savings resulting from the purchase or construction of the facility, not to exceed the annual revenue requirement associated with the allocated North Carolina retail portion of the facility as determined using

the cost of service methodology approved by the Commission in the utility's last general rate case.

(b) For purposes of this section, "carbon offset facility" means a facility in this State that meets all of the following:

(1) The facility is purchased or constructed by an electric public utility between July 1, 2009 and July 1, 2014.

(2) The facility uses solar electric, solar thermal, wind, hydropower, geothermal, or ocean current or wave energy to generate electricity or equivalent BTUs.

(3) The electricity or equivalent BTUs produced by the facility will displace electric generation so as to reduce greenhouse gas emissions from existing fossil fuel fired generating facilities used by the utility to meet the electricity needs of its North Carolina customers.

(c) An electric public utility seeking the adjustment authorized by this section shall first file with the Commission a petition requesting a determination that the facility the utility proposes to purchase or construct is a carbon offset facility. The utility shall include in its petition all of the following information in such form and detail as the Commission may require:

(1) Description and location of the facility.

(2) The benefit of the facility.

(3) A list of all necessary permitting and approvals and their status.

(4) Purchase or construction schedule, with in-service or completion date.

(5) Projected costs to purchase or construct and the annual revenue requirement for the facility.

(6) Projected annual generation output of the facility and information detailing how the generation projections were calculated.

(7) Information demonstrating that the operation of the facility will displace electric generation resulting in a reduction of greenhouse gas emissions from existing fossil fuel fired facilities used by the utility to meet the electricity needs of its North Carolina customers.

(8) The projected fuel and fuel-related costs savings the utility seeks to retain and how the savings were calculated.

(d) Upon the filing of the petition, the Public Staff shall conduct an investigation and shall file a report with the Commission setting forth the results of its investigation and stating whether the facility is a carbon offset facility. The Public Staff's report shall be filed not later than 45 days after the date the petition was filed, unless the Commission grants an extension of time not to exceed 15 days for good cause shown. Other interested persons may file comments in response to the utility's petition and the Public Staff's report not later than 15 days after the Public Staff files its report. The Commission shall enter an order either granting or denying the petition not later than 105 days after the date the petition was filed. A finding by the Commission that the facility is a carbon offset facility shall establish that the utility's decision to purchase or construct the facility is reasonable and prudent.

(e) Nothing in this section shall be construed to exempt an electric public utility from obtaining all applicable permits and certificates, including a certificate of public convenience and necessity required by G.S. 62-110.1. An electric public utility shall file annual cost and schedule updates with the Commission until the purchase or construction of an approved carbon offset facility is completed.

(f) Upon placement into service of an approved carbon offset facility, the electric public utility shall, in addition to the information and data provided under G.S. 62-133.2, submit the following in conjunction with its application for a fuel and fuel-related charge adjustment:

(1) A calculation of the annual revenue requirement associated with the carbon offset facility.
(2) Information demonstrating the specific items of costs associated with the carbon offset facility's annual revenue requirement are reasonable and prudent.
(3) The fuel and fuel-related cost savings resulting from operation of the carbon offset facility.
(4) Actual generation output of the carbon offset facility, including a demonstration and quantification of how this generation displaced electric generation resulting in reduced greenhouse gas emissions from existing fossil fuel fired facilities used by the utility to meet the electricity needs of its North Carolina customers during the test year.

(g) The Commission shall approve an estimate of the projected fuel and fuel-related cost savings and an annual revenue requirement for an approved facility, as appropriate, in each G.S. 62-133.2 proceeding. The Commission may also approve a true-up procedure for the projected fuel and fuel-related cost savings. In the first G.S. 62-133.2 proceeding conducted after the approved facility is placed in service, the Commission shall determine the reasonable and prudent cost of the facility for ratemaking purposes. The revenue requirement associated with the facility shall include but not be limited to: depreciation; operating and maintenance costs; applicable taxes; and a return on investment, net of accumulated depreciation, accumulated deferred income taxes, and other applicable savings or adjustments. The rate of return on investment shall be based on the then-current capital structure, embedded cost of preferred stock, and embedded cost of debt of the public utility net of appropriate income taxes, and the cost of common equity approved in the public utility's then most recent general rate case.

(h) The Commission shall authorize the electric public utility to utilize deferral accounting for the fuel and fuel-related cost savings realized in conjunction with the operation of an approved facility. The Commission shall, by rule or order, approve the terms and conditions of the deferral accounting.

(i) The annual revenue requirement of the approved facility in excess of the annual fuel and fuel-related cost savings shall be deemed recovered through the utility's then current base rates.

(j) The adjustment authorized by this section shall terminate upon the establishment of new rates in the electric public utility's next general rate case following the placement into service and inclusion into base rates of the approved facility."

SECTION 3.(a) G.S. 143-215.25A reads as rewritten:

"**§ 143-215.25A. Exempt dams.**

(a) Except as otherwise provided in this Part, this Part does not apply to any dam:
(1) Constructed by the United States Army Corps of Engineers, the Tennessee Valley Authority, or another agency of the United States government, when the agency designed or approved plans for the dam and supervised its construction.
(2) Constructed with financial assistance from the United States Soil Conservation Service, when that agency designed or approved plans for the dam and supervised its construction.
(3) Licensed by the Federal Energy Regulatory Commission, or for which a license application is pending with the Federal Energy Regulatory Commission.
(4) For use in connection with electric generating facilities regulated by the Nuclear Regulatory Commission. ~~under the jurisdiction of the North Carolina Utilities Commission, except that a dam operated by a small power~~

~~producer, as defined in G.S. 62-3(27a), shall be subject to the provisions of this Part even though the dam is constructed pursuant to a certificate of public convenience and necessity issues by the North Carolina Utilities Commission.~~

(5) Under a single private ownership that provides protection only to land or other property under the same ownership and that does not pose a threat to human life or property below the dam.

(6) That is less than 15 feet in height or that has an impoundment capacity of less than 10 acre-feet, unless the Department determines that failure of the dam could result in loss of human life or significant damage to property below the dam.

(b) The exemption from this Part for a dam described in subdivisions (1) and (2) of subsection (a) of this section does not apply after the supervising federal agency relinquishes authority for the operation and maintenance of the dam to a local entity."

SECTION 3.(b) Any impoundments or other facilities that were in use on the effective date of this section in connection with non-nuclear electric generating facilities under the jurisdiction of the North Carolina Utilities Commission, and that had been exempted under the provisions of G.S. 143-215.25A(4), prior to amendment by Section 3.(a) of this act, shall be deemed to have received all of the necessary approvals from the Department of Environment and Natural Resources and the Commission for Dam Safety, and shall not be required to submit application, certificate, or other materials in connection with the continued normal operation and maintenance of those facilities.

SECTION 4. Section 3 of this act becomes effective January 1, 2010. The remainder of the act is effective when it becomes law.

SENATE BILL 1004:
Amend Certain Electricity Generation Laws

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	July 16, 2009
Introduced by:	Senator Hoyle	**Prepared by:**	Steven Rose, Staff Attorney; Jeff Hudson Committee Counsel
Analysis of:	PCS to Third Edition S1004-CSSB-67		

SUMMARY: The Proposed Committee Substitute for Senate Bill 1004 would:

- ***Extend by one year a compliance date for sulfur dioxide (SO2) emission reductions for investor-owned public utilities that install generating units that use natural gas as fuel and retire coal-fired generating units.***
- ***Authorize the Utilities Commission to allow an electric public utility to recover operating costs and investment in a "carbon offset facility" through the savings in the fuel and fuel related costs realized by the utility because it will not be operating or will reduce operation of carbon fuel facilities as a result of the construction or acquisition of the carbon offset facility.***
- ***Bring certain dams used in connection with electric generating facilities under the State Dam Safety Act.***

CURRENT LAW:

Current law provides that an investor-owned public utility that owns or operates coal fired generating units that collectively emitted 225,000 tons or less of sulfur dioxide (SO2) in calendar year 2000 (Progress Energy) must reduce the collective emissions from the coal fired generating units that it owns or operates to 50,000 tons of sulfur dioxide (SO2) or less in the calendar year beginning January 1, 2013.

Current law provides that investment and operating costs of electrical generating facilities be established and recovered in a general rate case. Current law also provides for an annual review and adjustment to charges in electricity rates because of changes in fuel and fuel related costs.

Current law provides that the State Dam Safety Act, administered by the Department of Environment and Natural Resources, generally does not apply to a dam used in connection with electric generating facilities under the jurisdiction of the North Carolina Utilities Commission. This exemption includes dams that the serve coal ash ponds at coal-fired electric generating facilities.

BILL ANALYSIS:

Section 1 would extend by one year the calendar year 2013 compliance date for sulfur dioxide emission reductions for Progress Energy if the company installs generating units that use natural gas as fuel to replace coal-fired generating units that it will retire. Under the amended requirement, Progress Energy would have to reduce its emissions of sulfur dioxide (SO2) to no more than 50,000 tons in calendar year 2014.

Section 2 would authorize the Utilities Commission to allow an electric public utility to recover operating costs and investment in a "carbon offset facility" through the savings in the fuel and fuel

related costs realized by the utility because it will not be operating or will reduce operation of carbon fuel facilities as a result of the construction or acquisition of the carbon offset facility. Such recovery may not exceed the annual revenue requirement for the carbon offset facility.

A "carbon offset facility" must have been purchased or constructed between July 1, 2009 and July 1, 2014; must use solar, wind, hydropower, geothermal, or ocean current or wave energy to generate electricity; must displace existing fossil fuel facilities so as to reduce greenhouse gas emissions.

An electric public utility seeking investment and operating cost recovery under this new statute must first file a petition with the Commission for a determination that the facility is a carbon offset facility. Procedures for the petition and determination are set out in the statute. If the Commission determines the facility meets the requirements of the statute, the utility must still obtain all necessary permits, including a certificate of convenience and necessity.

When the carbon offset facility is placed into service, certain additional information must be filed in conjunction with the annual fuel adjustment proceeding. These include the annual revenue requirement for the facility, which must be shown to be reasonable and prudent, the fuel and fuel related savings, and the displacement of fossil fuel generation. In addition, in the first fuel adjustment proceeding, the Commission shall determine the reasonable and prudent cost of the facility for ratemaking purposes.

To the extent the annual revenue requirement of the facility exceeds the annual fuel and fuel related cost saving, it is deemed recovered in the existing current base rates.

Recovery of investment and operating cost through the fuel and fuel related proceeding ends with the establishment of new rates in the utility's next general rate case.

Section 3 would provide that dams used in connection with electric generating facilities, other than those used in connection with nuclear-powered facilities, will become subject to regulation under the State Dam Safety Act, which governs the construction, operation, maintenance, and removal of dams in the State.

EFFECTIVE DATE: Section 3 of this act would become effective January 1, 2010. The remainder of the act would become effective when the act becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1004*

AMENDMENT NO. _____
(to be filled in by Principal Clerk)

S1004-ATA-21 [v.1]

Comm. Sub. [YES]
Amends Title [YES]
Third Edition

Date 7-16 ,2009

Representative Harrison

moves to amend the bill on page 1, lines 1 through 9, by rewriting those lines to read:

"A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR RETENTION OF FUEL AND FUEL-RELATED COST SAVINGS ASSOCIATED WITH THE PURCHASE OR CONSTRUCTION OF A CARBON OFFSET FACILITY, TO BRING CERTAIN DAMS USED IN CONNECTION WITH ELECTRIC GENERATING FACILITIES UNDER THE DAM SAFETY ACT, AND TO MAKE OTHER CHANGES TO LAWS GOVERNING THE GENERATION OF ELECTRICITY."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 1004*
Commerce Committee Substitute Adopted 5/7/09
House Committee Substitute Favorable 7/8/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1004-PCS55483-SB-67

Short Title: Amend Certain Electricity Generation Laws. (Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR RETENTION OF FUEL AND FUEL-RELATED COST SAVINGS ASSOCIATED WITH THE PURCHASE OR CONSTRUCTION OF A CARBON OFFSET FACILITY, TO BRING CERTAIN DAMS USED IN CONNECTION WITH ELECTRIC GENERATING FACILITIES UNDER THE DAM SAFETY ACT, AND TO MAKE OTHER CHANGES TO LAWS GOVERNING THE GENERATION OF ELECTRICITY.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The General Assembly makes the following findings:

(1) In 2002, North Carolina enacted S.L. 2002-4, the Clean Smokestacks Act, with the goal of improving air quality in the State.

(2) With the enactment of the Clean Smokestacks Act, North Carolina became a national leader in multipollutant air emissions reduction strategies and has experienced significant reductions in oxides of nitrogen (NOx) and sulfur dioxide (SO2), and, as a co-benefit, mercury.

(3) Duke Energy and Progress Energy, the investor-owned public utilities governed by the Clean Smokestacks Act, actively participated in the negotiations that led to the enactment of the Clean Smokestacks Act and recommended substantial emissions reductions requirements and an aggressive timeline for achieving compliance with those requirements.

(4) Both Duke Energy and Progress Energy have produced emissions reductions greater than and sooner than required by the Clean Smokestacks Act.

(5) The retirement of coal-fired generating units and installation of generating units that use natural gas as the primary fuel will reduce emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) more than would the installation of sulfur dioxide (SO2) emissions controls on the coal-fired generating units.

(6) The retirement of coal-fired generating units and installation of generating units that use natural gas as the primary fuel will reduce emissions of carbon dioxide (CO2) and mercury (Hg) significantly more than would the installation of sulfur dioxide (SO2) emissions controls on the coal-fired generating units.

(7) The retirement of coal-fired generating units that are owned and operated by Progress Energy and located in eastern North Carolina and the installation of generating units that use natural gas as their primary fuel to replace them will reduce emissions of oxides of nitrogen (NOx), sulfur dioxide (SO2), carbon dioxide (CO2), and mercury (Hg) more than would the installation of sulfur dioxide (SO2) emissions controls on the older coal-fired generating units.

(8) The retirement of coal-fired generating units that are owned and operated by Progress Energy and located in eastern North Carolina and the installation of generating units that use natural gas as their primary fuel to replace them will take up to one year more than would the installation of sulfur dioxide (SO2) emissions controls on the older coal-fired generating units.

(9) In order to promote cleaner air for the citizens of the State, it is in the interest of the State to provide a single, one-year extension of a compliance deadline to Progress Energy so that it may retire one or more coal-fired generating units and install one or more generating units that use natural gas as their primary fuel to replace them.

SECTION 1.(b) G.S. 143-215.107D reads as rewritten:

"**§ 143-215.107D. Emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) from certain coal-fired generating units.**

...

(e) ~~An~~ Except as provided in subsection (e1) of this section, an investor-owned public utility that owns or operates coal-fired generating units that collectively emitted 225,000 tons or less of sulfur dioxide (SO2) in calendar year 2000:

(1) Shall not collectively emit from the coal-fired generating units that it owns or operates more than 100,000 tons of sulfur dioxide (SO2) in any calendar year beginning 1 January 2009.

(2) Shall not collectively emit from the coal-fired generating units that it owns or operates more than 50,000 tons of sulfur dioxide (SO2) in any calendar year beginning 1 January 2013.

(e1) An investor-owned public utility that owns or operates coal-fired generating units that collectively emitted 225,000 tons or less of sulfur dioxide (SO2) in calendar year 2000 may delay compliance with subdivision (2) of subsection (e) of this section until the calendar year beginning 1 January 2014 if the investor-owned public utility demonstrates to the Commission that it will install generating units that use natural gas as the primary fuel at one or more coal-fired generating units that it owns or operates on 1 July 2009 and will permanently cease operations at all coal-fired units at one or more facilities in North Carolina that are not operated with flue gas desulfurization devices. An investor-owned public utility that seeks compliance pursuant to this subsection shall submit a revised verified statement required pursuant to G.S. 62-133.6(i) when it files with the Utilities Commission a certificate of convenience and necessity for a generating unit that uses natural gas as the primary fuel.

...."

SECTION 2. Article 7 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"**§ 62-133.10. Retention of fuel and fuel-related cost savings associated with the purchase or construction of a carbon offset facility.**

(a) The Commission shall permit an electric public utility that purchases or constructs a carbon offset facility to adjust its fuel and fuel-related costs in G.S. 62-133.2 to retain the North Carolina retail allocation of the system fuel and fuel-related cost savings resulting from the purchase or construction of the facility, not to exceed the annual revenue requirement associated with the allocated North Carolina retail portion of the facility as determined using

the cost of service methodology approved by the Commission in the utility's last general rate case.

(b) For purposes of this section, "carbon offset facility" means a facility in this State that meets all of the following:

(1) The facility is purchased or constructed by an electric public utility between July 1, 2009, and July 1, 2014.

(2) The facility uses solar electric, solar thermal, wind, hydropower, geothermal, or ocean current or wave energy to generate electricity or equivalent BTUs.

(3) The electricity or equivalent BTUs produced by the facility will displace electric generation so as to reduce greenhouse gas emissions from existing fossil fuel fired generating facilities used by the utility to meet the electricity needs of its North Carolina customers.

(c) An electric public utility seeking the adjustment authorized by this section first shall file with the Commission a petition requesting a determination that the facility the utility proposes to purchase or construct is a carbon offset facility. The utility shall include in its petition all of the following information in such form and detail as the Commission may require:

(1) Description and location of the facility.

(2) The benefit of the facility.

(3) A list of all necessary permitting and approvals and their status.

(4) Purchase or construction schedule, with in-service or completion date.

(5) Projected costs to purchase or construct and the annual revenue requirement for the facility.

(6) Projected annual generation output of the facility and information detailing how the generation projections were calculated.

(7) Information demonstrating that the operation of the facility will displace electric generation resulting in a reduction of greenhouse gas emissions from existing fossil fuel fired facilities used by the utility to meet the electricity needs of its North Carolina customers.

(8) The projected fuel and fuel-related cost savings the utility seeks to retain and how the savings were calculated.

(d) Upon the filing of the petition, the Public Staff shall conduct an investigation and shall file a report with the Commission setting forth the results of its investigation and stating whether the facility is a carbon offset facility. The Public Staff's report shall be filed not later than 45 days after the date the petition was filed, unless the Commission grants an extension of time not to exceed 15 days for good cause shown. Other interested persons may file comments in response to the utility's petition and the Public Staff's report not later than 15 days after the Public Staff files its report. The Commission shall enter an order either granting or denying the petition not later than 105 days after the date the petition was filed. A finding by the Commission that the facility is a carbon offset facility shall establish that the utility's decision to purchase or construct the facility is reasonable and prudent.

(e) Nothing in this section shall be construed to exempt an electric public utility from obtaining all applicable permits and certificates, including a certificate of public convenience and necessity required by G.S. 62-110.1. An electric public utility shall file annual cost and schedule updates with the Commission until the purchase or construction of an approved carbon offset facility is completed.

(f) Upon placement into service of an approved carbon offset facility, the electric public utility shall, in addition to the information and data provided under G.S. 62-133.2, submit the following in conjunction with its application for a fuel and fuel-related charge adjustment:

(1) A calculation of the annual revenue requirement associated with the carbon offset facility.
(2) Information demonstrating the specific items of costs associated with the carbon offset facility's annual revenue requirement are reasonable and prudent.
(3) The fuel and fuel-related cost savings resulting from operation of the carbon offset facility.
(4) Actual generation output of the carbon offset facility, including a demonstration and quantification of how this generation displaced electric generation resulting in reduced greenhouse gas emissions from existing fossil fuel fired facilities used by the utility to meet the electricity needs of its North Carolina customers during the test year.

(g) The Commission shall approve an estimate of the projected fuel and fuel-related cost savings and an annual revenue requirement for an approved facility, as appropriate, in each G.S. 62-133.2 proceeding. The Commission also may approve a true-up procedure for the projected fuel and fuel-related cost savings. In the first G.S. 62-133.2 proceeding conducted after the approved facility is placed in service, the Commission shall determine the reasonable and prudent cost of the facility for ratemaking purposes. The revenue requirement associated with the facility shall include but not be limited to: depreciation; operating and maintenance costs; applicable taxes; and a return on investment, net of accumulated depreciation, accumulated deferred income taxes, and other applicable savings or adjustments. The rate of return on investment shall be based on the then current capital structure, embedded cost of preferred stock, and embedded cost of debt of the public utility net of appropriate income taxes, and the cost of common equity approved in the public utility's then most recent general rate case.

(h) The Commission shall authorize the electric public utility to utilize deferral accounting for the fuel and fuel-related cost savings realized in conjunction with the operation of an approved facility. The Commission shall, by rule or order, approve the terms and conditions of the deferral accounting.

(i) The annual revenue requirement of the approved facility in excess of the annual fuel and fuel-related cost savings shall be deemed recovered through the utility's then current base rates.

(j) The adjustment authorized by this section shall terminate upon the establishment of new rates in the electric public utility's next general rate case following the placement into service and inclusion into base rates of the approved facility."

SECTION 3.(a) G.S. 143-215.25A reads as rewritten:

"**§ 143-215.25A. Exempt dams.**

(a) Except as otherwise provided in this Part, this Part does not apply to any dam:
(1) Constructed by the United States Army Corps of Engineers, the Tennessee Valley Authority, or another agency of the United States government, when the agency designed or approved plans for the dam and supervised its construction.
(2) Constructed with financial assistance from the United States Soil Conservation Service, when that agency designed or approved plans for the dam and supervised its construction.
(3) Licensed by the Federal Energy Regulatory Commission, or for which a license application is pending with the Federal Energy Regulatory Commission.
(4) For use in connection with electric generating facilities regulated by the Nuclear Regulatory Commission.~~under the jurisdiction of the North Carolina Utilities Commission, except that a dam operated by a small power~~

~~producer, as defined in G.S. 62-3(27a), shall be subject to the provisions of this Part even though the dam is constructed pursuant to a certificate of public convenience and necessity issues by the North Carolina Utilities Commission.~~

(5) Under a single private ownership that provides protection only to land or other property under the same ownership and that does not pose a threat to human life or property below the dam.

(6) That is less than 15 feet in height or that has an impoundment capacity of less than 10 acre-feet, unless the Department determines that failure of the dam could result in loss of human life or significant damage to property below the dam.

(b) The exemption from this Part for a dam described in subdivisions (1) and (2) of subsection (a) of this section does not apply after the supervising federal agency relinquishes authority for the operation and maintenance of the dam to a local entity."

SECTION 3.(b) Any impoundments or other facilities that were in use on the effective date of this section in connection with nonnuclear electric generating facilities under the jurisdiction of the North Carolina Utilities Commission, and that had been exempted under the provisions of G.S. 143-215.25A(4), prior to amendment by Section 3(a) of this act, shall be deemed to have received all of the necessary approvals from the Department of Environment and Natural Resources and the Commission for Dam Safety, and shall not be required to submit application, certificate, or other materials in connection with the continued normal operation and maintenance of those facilities.

SECTION 4. Section 3 of this act becomes effective January 1, 2010. The remainder of the act is effective when it becomes law.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒ House Committee Substitute # 1 for
SB 1004 A BILL TO BE ENTITLED AN ACT TO EXTEND BY ONE YEAR A COMPLIANCE DATE FOR SULFUR DIOXIDE EMISSION REDUCTIONS FOR INVESTOR-OWNED PUBLIC UTILITIES THAT CONVERT COAL-FIRED GENERATING UNITS TO UNITS THAT USE ONLY NATURAL GAS AS FUEL.

☒ With a favorable report as to House committee substitute bill 2, which changes the title, unfavorable as to House committee substitute bill 1.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

July 16 , 2009

SPEAKERS: PLEASE SIGN IN BELOW

Name & Title	Representing (Agency/Company)	Bill #	Support/ Oppose
✓ Sharon Miller Executive Director	Carolina Utility Customers Association	SB1004	Question Concerns Oppose
✓ MOLLY DIGGINS Exec Director	Sierra Club (+ other env. groups)	NO position	

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — **Name of Committee**

July 16, 2009 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ken Hyde	Kaylon Law Firm
BRUCE THOMPSON	PARKER POE
Andrew Meehan	NCAEC
Angie Whitson	NCPC
Tracy Kimbrell	Parker Poe
L. Andrews	NCFB
[illegible]	G.S.K.
Betsy Bailey	Professional Engineers of NC
Drew Ball	Sierra Club
Molly Diggins	Sierra Club
Edwin Miller	CTNC

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — July 16, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Goodman	NC Chamber
[signature]	Progress Energy
Ed Finley	NCHC
Kathy Hawkins	Progress Energy
George Everett	Duke Energy
Bryant Kinney	Duke Energy
[signature]	MWC
[signature]	NCIC
Andrew Cagle	DLC & Assoc.
[signature]	[signature]
Jessi Hayes	NC HBA
Lisa Martin	

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — **Name of Committee**

July 16, 2009 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Will Snyderwine	CTNC
Bo Somers	Duke Energy
Rob Black	Teamsters

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — **Name of Committee**

July 16, 2009 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Kristen Coracini	EDF
Peter Rumbe	American Rivers
R Rogers	CWMTF
Tom Cors	TNC
Shawn Miller	CWCA
Dan Conrad	NCCN
Colleen H. Sullins	NCDENR/DWQ
Jon Risgaard	NCDENR / DWQ
Debra Wyatt	NCDENR / DWQ.
Lori Montgomery	NCDENR / DWQ
Tess Sanders	WHITE OAK- NEW RIVERKEEPER

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — **Name of Committee**

July 16, 2009 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Hope Taylor	Clean Water for NC
Danielle Nathan	NC Sierra Club
Ted Bush	NCDENR/DWQ
Bliss Lite	NC Util. Comm. - Comm Staff
Elise Cox	Public Staff - NCUC
James McLawhorn	Public Staff - NCUC
Bob Bennink	NCUC Staff
S Watson	NCUC
Dwight Allen	Allen Law Offices, PLLC
Robert Gruber	NC Public Staff
Dianna Downey	NCUC Public Staff

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — **Name of Committee**

July 16, 2009 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Michael Thompson	Dominion
Thomas Ockstyk	USGBC Triangle Chapter www.triangleusgbc.org
Lori Cherry	DENR DAQ
Grady McCallum	NC Conservation Network.
Sarah Clapp	NCWRC

RAM. 643

HOUSE PAGES

NAME OF COMMITTEE ENVIRONMENT & NATURAL RESOURCES DATE 7-16-09

1. Name: Caylin Bullock
   County: Wake
   Sponsor: Hackney
2. Name: Logan Brawley
   County: Forsyth
   Sponsor: McGee
3. Name: Kayla Hollingsworth
   County: Randolph
   Sponsor: Pat Hurley
4. Name: Madison Parker
   County: Johnston
   Sponsor: James Langdon
5. Name: ~~Ben~~ Jake Toompas
   County: Forsyth
   Sponsor: Paul Stam

SGT-AT-ARM

1. Name: Bob Rossi
2. Name: EARL COKER
3. Name: JAMES WORTH
4. Name: DAVID SHEARON
5. FRANK PREVO

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

July 23, 2009

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Thursday, July 23, 2009, in room 643 of the Legislative Office Building. Representative Lucy T. Allen presided. Members present were: Representatives Gillespie, Harrison, Justice, Tarleton, and Underhill Vice-Chairs; Representatives Blackwood, Floyd, Killian, Martin, McComas, Samuelson, Tucker, and West.

Representative Allen called the meeting to order at 12:01 p.m. She began by introducing the pages: Taylor Jackson, Mecklenburg County (sponsored by Speaker Hackney); Ilyse Hines, Cumberland County (sponsored by Representative Glazier); Bree Gawron, Brunswick County (sponsored by Representative Iler); Paula Sujkowski, Wake County (sponsored by Representative Dollar); and Cara Read, Forsyth County (sponsored by Speaker Hackney). She then recognized the Sergeant-at-arms staff assisting with the meeting: Martha Gadison, David Shearon, James Worth, Frank Prevo, Toussant Avent, and Trey Raley.

The first item on the agenda was the continuing discussion of the Proposed Committee Substitute for HB 643 – A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE INJECTION OF RECLAIMED WATER INTO AN AQUIFER FOR TEMPORARY STORAGE. Representative Allen noted that this bill had been before the committee at the July 14 and July 16 meetings. Representative Gillespie moved that the PCS (version 6) be again placed before the committee for consideration. This motion passed without objection. Representative Tucker, the bill's primary sponsor, was recognized to explain the latest PCS. At that time, Representative Tucker indicated that he had deemed it appropriate to now convert this bill into a study of reclaimed water and asked that Jennifer Mundt, Staff Counsel, be recognized to explain the process the proposed legislation would now follow. She indicated that this would authorize the Environmental Review Commission to conduct a three-pronged study on the use and storage of reclaimed water. Questions were addressed by staff and the bill's sponsor before Representative Harrison made a motion for a favorable report as to the Committee Substitute for HB 643, unfavorable as to the original bill, and recommendation that the committee substitute bill be referred to the Committee on Rules, Calendar, and Operations of the House to be converted into a study. This motion received a favorable vote.

With no further business to come before the committee, the meeting was adjourned at 12:10 p.m.

Respectfully submitted,

Representative Lucy T. Allen, Chair

Shara Graham, Committee Assistant

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE MEETING

July 23, 2009
12:00 NOON
Room 643 LOB

Representative Lucy T. Allen, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

HB 643 - Authorize Aquifer Storage of Reclaimed Water
Primary Sponsor: Rep. Tucker

ADJOURNMENT

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 643
PROPOSED COMMITTEE SUBSTITUTE H643-CSSBf-12 [v.6]

7/15/2009 5:40:33 PM

Short Title: Authorize Aquifer Storage of Reclaimed Water. (Public)

Sponsors:

Referred to:

March 18, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE INJECTION OF RECLAIMED WATER INTO AN AQUIFER FOR TEMPORARY STORAGE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-213 reads as rewritten:

"**§ 143-213. Definitions.**

Unless the context otherwise requires, the following terms as used in this Article and Articles 21A and 21B of this Chapter are defined as follows:

...

(8a) The term "beneficial reuse" in reference to reclaimed water means a use that protects the environment through the efficient allocation and conservation of the potable water, groundwater, and surface water resources of the State.

...

(13a) The term "reclaimed water" means tertiary treated wastewater of a quality that will enable the water to be used for a beneficial reuse."

SECTION 2. G.S. 143-214.2(b) reads as rewritten:

"(b) The discharge of any wastes to the subsurface or groundwaters of the State by means of wells is prohibited. This section shall not be construed to prohibit the operation of any of the following:

(1) ~~closed-loop~~A closed-loop groundwater remediation ~~systems~~ system in accordance with G.S. 143-215.1A.

(2) An injection well as part of a reclaimed water aquifer storage and recovery system in accordance with G.S. 143-215.1D."

SECTION 3. G.S. 143-215.1(a) reads as rewritten:

"(a) Activities for Which Permits Required. – No person shall do any of the following things or carry out any of the following activities unless that person has received a permit from the Commission and has complied with all conditions set forth in the permit:

...

(13) Construct, use, or operate any injection well for the purpose of control of sources of water pollution.

(14) Alter, extend, or change the construction or method of operation of any injection well for the purpose of control of sources of water pollution."

SECTION 4. G.S. 143-215.1(d) reads as rewritten:

"(d) Applications and Permits for Sewer Systems, Sewer System ~~Extensions and~~Extensions, Pretreatment Facilities, Land Application of Waste, Injection Wells for the purpose of control of sources of water pollution, and ~~for~~ Wastewater Treatment Facilities Not Discharging to the Surface Waters of the State. –

(1) All applications for new permits and for renewals of existing permits for sewer systems, sewer system ~~extensions and for~~extensions, disposal systems, ~~and for~~ land application of waste, ~~or~~ injection wells for the purpose of control of sources of water pollution, and treatment works ~~which~~ that do not discharge to the surface waters of the State, and all permits or renewals and decisions denying any application for permit or renewal shall be in writing. The Commission shall act on a permit application as quickly as possible. The Commission may conduct any inquiry or investigation it considers necessary before acting on an application and may require an applicant to submit plans, specifications, and other information the Commission considers necessary to evaluate the application. If the Commission fails to act on an application for a permit, including a renewal of a permit, within 90 days after the applicant submits all information required by the Commission, the application is considered to be approved. Permits and renewals issued in approving such facilities pursuant to this subsection shall be effective until the date specified therein or until rescinded unless modified or revoked by the Commission. Local governmental units to whom pretreatment program authority has been delegated shall establish, maintain, and provide to the public, upon written request, a list of pretreatment applications received.

(2) An applicant for a permit to dispose of petroleum contaminated soil by land application shall give written notice that he intends to apply for such a permit to each city and county government having jurisdiction over any part of the land on which disposal is proposed to occur. The Commission shall not accept such a permit application unless it is accompanied by a copy of the notice and evidence that the notice was sent to each such government by certified mail, return receipt requested. The Commission may consider, in determining whether to issue the permit, the comments submitted by local governments."

SECTION 5. Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-215.1D. Reclaimed water aquifer storage and recovery systems allowed.**

(a) As used in this section, "reclaimed water aquifer storage and recovery system" means a system and attendant process for the injection of reclaimed water into an aquifer for temporary storage followed by recovery and beneficial reuse of the water.

(b) The Secretary may issue a permit for the siting, construction, and operation of a reclaimed water aquifer storage and recovery system in an aquifer, or portion thereof, with groundwater having a naturally occurring concentration of total dissolved solids that exceeds 10,000 mg/l. Permits shall be issued in accordance with G.S. 143-215.1 and applicable rules of the Commission.

(c) A permit for a reclaimed water aquifer storage and recovery system shall specify the location and depth at which reclaimed water is to be injected and shall specify design, construction, operation, and well abandonment requirements for the reclaimed water aquifer storage and recovery system necessary to ensure that the treated reclaimed water will be captured by the recovery system. The Secretary may impose any additional permit conditions or limitations necessary to:

(1) Specify or limit the distance between the point at which reclaimed water is injected into the groundwater and the point at which reclaimed water is recovered for beneficial reuse.
(2) Specify the minimum or maximum gradients between the point at which reclaimed water is injected into the groundwater and the point at which reclaimed water is recovered for beneficial reuse.
(3) Ensure that, at the point of injection, the reclaimed water meets standards adopted by the Environmental Management Commission as necessary to protect groundwater resources.
(4) Ensure that, after recovery and prior to distribution, the reclaimed water meets standards adopted by the Environmental Management Commission for reclaimed water effluent.
(5) Protect the environment, natural resources, or public health consistent with this Article.

(d) The Commission shall adopt rules to implement this section."

SECTION 6. G.S. 143-215.3D(a) reads as rewritten:

"(a) Annual fees for discharge and nondischarge permits under G.S. 143-215.1. –

(1) Major Individual NPDES Permits. – The annual fee for an individual permit for a point source discharge of 1,000,000 or more gallons per day, a publicly owned treatment works (POTW) that administers a POTW pretreatment program, as defined in 40 Code of Federal Regulations § 403.3 (1 July 1996 Edition), or an industrial waste treatment works that has a high toxic pollutant potential is three thousand four hundred forty dollars ($3,440).
(2) Minor Individual NPDES Permits. – The annual fee for an individual permit for a point source discharge other than a point source discharge to which subdivision (1) of this subsection applies is eight hundred sixty dollars ($860.00).
(3) Single-Family Residence. – The annual fee for a certificate of coverage under a general permit for a point source discharge or an individual nondischarge permit from a single-family residence is sixty dollars ($60.00).
(4) Stormwater and Wastewater Discharge General Permits. – The annual fee for a certificate of coverage under a general permit for a point source discharge of stormwater or wastewater is one hundred dollars ($100.00).
(5) Recycle Systems. – The annual fee for an individual permit for a recycle system nondischarge permit is three hundred sixty dollars ($360.00).
(6) Major Nondischarge Permits. – The annual fee for an individual permit for a nondischarge of 10,000 or more gallons per day or requiring 300 or more acres of land is one thousand three hundred ten dollars ($1,310).
(7) Minor Nondischarge Permits. – The annual fee for an individual permit for a nondischarge of less than 10,000 gallons per day or requiring less than 300 acres of land is eight hundred ten dollars ($810.00).
(8) Animal Waste Management Systems. – The annual fee for animal waste management systems is as set out in G.S. 143-215.10G.
(9) Major Reclaimed Water System Permits. – The annual fee for an individual permit for a reclaimed water system of 10,000 or more gallons per day shall be one thousand three hundred ten dollars ($1,310).
(10) Major Reclaimed Water System Permits with Reclaimed Water Aquifer Storage and Recovery systems. – The annual fee for an individual permit for a reclaimed water system with reclaimed water aquifer storage and recovery system of 10,000 or more gallons per day of reclaimed water generated,

stored, or utilized shall be two thousand one hundred twenty dollars ($2,120).

(11) Minor Reclaimed Water System Permits. – The annual fee for an individual permit for a reclaimed water system of less than 10,000 gallons per day shall be eight hundred ten dollars ($810).

(12) Minor Reclaimed Water Permits with Reclaimed Water Aquifer Storage and Recovery Systems. – The annual fee for an individual permit for a reclaimed water system with reclaimed water aquifer storage and recovery system of less than 10,000 gallons per day of reclaimed water generated, stored, or utilized shall be one thousand six hundred twenty dollars ($1,620).

(13) In-situ Groundwater Remediation Injection Well Permits. – The annual fee for an individual permit for an injection well or well system shall be eight hundred ten dollars ($810).

(14) Reclaimed Water Aquifer Storage and Recovery Injection Systems. – The annual fee for an individual permit for a reclaimed water aquifer storage and recovery well system shall be eight hundred ten dollars ($810)."

SECTION 7. This act is effective when it becomes law.

HOUSE BILL 643:
Authorize Aquifer Storage of Reclaimed Water

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	July 16, 2009
Introduced by:	Rep. Tucker	**Prepared by:**	Jeff Hudson Committee Counsel
Analysis of:	PCS to First Edition H643-CSSBf-12 [v.6]		

SUMMARY: ***The Proposed Committee Substitute (PCS) for House Bill 643 would authorize the issuance of permits for the siting, construction, and operation of reclaimed water aquifer storage and recovery systems, which inject reclaimed water into an aquifer for temporary storage followed by recovery and beneficial reuse of the water.***

CURRENT LAW:

Under current law, the injection of reclaimed water to the subsurface or groundwaters of the State by means of a well is prohibited.

BILL ANALYSIS:

The PCS would authorize the issuance of permits for the siting, construction, and operation of reclaimed water aquifer storage and recovery systems for temporary storage of reclaimed water followed by recovery and beneficial reuse of the water. The PCS would allow the injection of reclaimed water into an aquifer, or portion thereof, with groundwater having a naturally occurring concentration of total dissolved solids that exceeds 10,000 mg/l. Injection of the reclaimed water.

Permits for reclaimed water aquifer storage and recovery systems must contain certain information and may contain various conditions or limitations. Permit fees are based on the type and capacity of the system.

The bill would also make a number of conforming changes to water quality statutes.

EFFECTIVE DATE:

The PCS would be effective when it becomes law.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

HB 643 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE INJECTION OF RECLAIMED WATER INTO AN AQUIFER FOR TEMPORARY STORAGE.

☒ With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — July 23, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[signature]	WCSR
Danielle Nathan	Sierra Club
Betsy Bailey	PENC
JOHN SHAW	WAKE UP WAKE CO.
[signature]	NCPC/FB
Kim Hibbard	NCLM
Amy Hobbs	MWC
[signature]	MWC
PRESTON HOWARD	MCIC
[signature]	MCIC
Tracy Kimbrell	Parker Poe
BRUCE THOMPSON	PARKER POE

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — July 23, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mike Giles	NC Coastal Federation
John Merritt	MWC LLC
Sarah Lindsay	CCC
Colleen Kachmarek	NCCWA
Dan Conrad	NCCN
Leslie Arnold	SSG-Daily Bulletin
Thomas Slusser	DENR-DWQ
Lori Montgomery	- DENR - DWQ
Elizabeth Curtis	Environment North Carolina
Peter Raabe	American Rivers
Hope Taylor	Clean Water for N C.
Sean Quinn	Sierra Club

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — July 23, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Grady McCallie	NC Conservation Network
Drew Ball	NC Sierra Club
R Rogers	CWMTF
Elizabeth Biser	DENR
Robin Smith	DENR
Ted Bush	DENR/DWQ
Molly Diggins	Sierra Club

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — July 23, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
JOHN GOODMAN	NC CHAMBER
Jay Stem	NCAA

RM 643

HOUSE PAGES

ENVIRONMENT AND NATURAL
NAME OF COMMITTEE RESOURCES DATE 7-23-09

1. Name: Taylor Jackson
   County: Mechlenburg
   Sponsor: Nich Mackey
2. Name: Ilyse Hines
   County: Cumberland
   Sponsor: Rick Glazier
3. Name: Bree Bawron
   County: Brunswick
   Sponsor: Frank Iler
4. Name: Paula Sujkowski
   County: Wake
   Sponsor: Nelson Dollar
5. Name: Cara Read
   County: Forsyth
   Sponsor: Speaker Joe Hackney

SGT-AT-ARM

1. Name: Martha Gadison - David Sheadon
2. Name: James Worth - Frank Prevo
3. Name: Toussant Avent
4. Name: Trey Raley

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

August 4, 2009

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Tuesday, August 4, 2009, in room 643 of the Legislative Office Building. Representative Lucy T. Allen presided. Members present were: Representatives Gillespie, Harrison, Tarleton, and Underhill Vice-Chairs; Representatives K. Alexander, Blackwood, Floyd, Gibson, Haire, Killian, Luebke, Martin, McComas, McElraft, Samuelson, and Womble.

Representative Allen called the meeting to order at 12:05 p.m. She began by introducing the pages: Matt Martin, Wake County (sponsored by Representative Lewis); Hannah Osborne, Orange County (sponsored by Representative Insko); Rachael Harris, Beaufort County (sponsored by Representative Williams); Christian Crumpton, Moore County (sponsored by Representative Boles); and Zaki Haidary, Wake County (sponsored by Representative Allen). She then recognized the Sergeant-at-arms staff assisting with the meeting: Fred Hines, Carlton Adams, Frank Prevo, David Shearon, James Worth, and Young Bae.

The first item on the agenda was SB 838 – A BILL TO BE ENTITLED AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO VARIOUS LAWS RELATED TO THE ENVIRONMENT. Representative Gibson was recognized to explain the bill in the absence of Senator Albertson, the bill's primary sponsor. As a proposed committee substitute was being distributed, Representative Tarleton moved that the PCS be before the committee for consideration. This motion passed without objection. Representative Gibson called on Jeff Hudson, Committee Counsel, and Jennifer Mundt, Committee Analyst, to provide a more detailed, section-by-section explanation. Once these remarks were completed, Representative Allen opened the floor for questions and comments from committee members. Robin Smith, Assistant Secretary with the Department of Environment and Natural Resources was called upon to assist in fielding questions as they pertained to her department. Elizabeth Ouzts with Environment North Carolina was recognized to speak. She noted her concerns about the language, stating that it appeared to adversely alter new development rules. After all concerns were satisfactorily addressed, Representative Haire made a motion for a favorable report as to the House Committee Substitute Bill, which changes the title, unfavorable as to the original bill, and recommendation that the House Committee Substitute Bill be referred to the Committee on Finance. This motion passed unanimously.

Next on the agenda was Committee Substitute for SB 1020 - A BILL TO BE ENTITLED AN ACT TO PROTECT AND RESTORE WATER QUALITY AND QUANTITY IN THE UPPER NEUSE RIVER BASIN, FALLS LAKE, AND OTHER DRINKING WATER SUPPLY RESERVOIRS BY DIRECTING THE ENVIRONMENTAL MANAGEMENT COMMISSION TO PROVIDE CREDIT TO LOCAL GOVERNMENTS, LANDOWNERS, AND OTHERS WHO REDUCE WATER POLLUTION IN THE UPPER NEUSE RIVER BASIN BEFORE PERMANENT RULES ARE ADOPTED. Senator Stein was recognized to explain the bill. A proposed committee substitute was distributed. Representative Gillespie made a motion that the PCS be placed before the committee for consideration. This motion passed without objection. Senator Stein began by noting that the committee had already dealt with this issue when they

passed HB 1099 out of the committee. Jeff Hudson, Committee Counsel, was called upon to assist in answering questions from committee members. Lisa Martin with the North Carolina Homebuilders' Association was recognized to present the concerns of her organization. She outlined areas that would be difficult to implement and expressed concerns with the temporary rules presented in the PCS. She went on to suggest changes that her members could support. Senator Stein indicated that "all counties and cities have signed off on this," and asked for support from committee members. Based on the concerns presented by Lisa Martin, Representative Gillespie requested that SB 1020 be held over with the hopes that these problems might be addressed and a new PCS brought before the committee at the next meeting. Senator Stein agreed with this suggestion.

With no further business to come before the committee, the meeting was adjourned at 12:52 p.m.

Respectfully submitted,

Representative Lucy T. Allen, Chair

Shara Graham, Committee Assistant

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE MEETING

August 4, 2009
12:00 NOON
Room 643 LOB

Representative Lucy T. Allen, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

SB 838 - Environmental Technical Corrections 2009
Primary Sponsor: Sen. Albertson

SB 1020 - Upper Neuse River Basin Clean Water Credits
Primary Sponsor: Sen. Stein

ADJOURNMENT

SENATE BILL 838*

Short Title:	Environmental Technical Corrections 2009.	(Public)
Sponsors:	Senator Albertson.	
Referred to:	Agriculture/Environment/Natural Resources.	

March 25, 2009

A BILL TO BE ENTITLED

AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO VARIOUS LAWS RELATED TO THE ENVIRONMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 120-70.61(c) reads as rewritten:

"**§ 120-70.61. Membership; cochairs; vacancies; quorum.**

(c) Except as otherwise provided in this section, a legislative 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 General Assembly 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 legislative 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 office on the Commission. Any vacancy that occurs on the Commission shall be filled in the same manner as the original appointment."

SECTION 2. G.S. 146-64 reads as rewritten:

"**§ 146-64. Definitions.**

As used in this Chapter:

...

(8) "Swamplands" means lands too wet for cultivation except by drainage, and includes

a. All State lands which have been or are known as "swamp" or "marsh" lands, "pocosin bay," "briary bay" or "savanna," and which are a part of one swamp exceeding 2,000 acres in area, or which are a part of one swamp 2,000 acres or less in area which has been surveyed by the State; and

b. All State lands which are covered by the waters of any state-owned lake or pond.

(9) "Vacant and unappropriated lands" means all State lands title to which is vested in the State as sovereign, and land acquired by the State by virtue of being sold for taxes, except ~~swamplands as hereinafter defined.~~swamplands.

...."

SECTION 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 838*
PROPOSED HOUSE COMMITTEE SUBSTITUTE S838-PCS35381-TAf-32

Short Title: Amend Env Laws/Env Tech Corrects 2009. (Public)

Sponsors:

Referred to:

March 25, 2009

A BILL TO BE ENTITLED

AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS TO: (1) REQUIRE ELECTRONIC REPORTING OF ENVIRONMENTAL LEAD TEST RESULTS AND BLOOD LEAD TEST RESULTS; (2) CLARIFY THE FEE STRUCTURE FOR FOOD AND LODGING PERMITS; (3) REVISE THE SUNSET PROVISION FOR NUTRIENT OFFSET PAYMENTS; (4) AMEND THE SOLID WASTE DISPOSAL TAX TO STREAMLINE THE PROCESS WHEN A LOCAL GOVERNMENT IS SERVED BY A SOLID WASTE MANAGEMENT AUTHORITY; (5) REPEAL THE REQUIREMENT THAT SEASONAL STATE PARK EMPLOYEES WEAR A UNIFORM VEST; (6) CLARIFY IMPLEMENTATION OF NUTRIENT OFFSETS UNDER THE JORDAN LAKE RULES; (7) CLARIFY IMPLEMENTATION OF THE JORDAN LAKE RULES RELATED TO FEDERAL AND STATE ENTITIES; (8) MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO VARIOUS LAWS RELATED TO THE ENVIRONMENT AND NATURAL RESOURCES; AND (9) AMEND OR REPEAL VARIOUS ENVIRONMENTAL REPORTING REQUIREMENTS.

The General Assembly of North Carolina enacts:

PART I. AMEND ENVIRONMENTAL AND NATURAL RESOURCES LAWS.

SECTION 1. G.S. 130A-131.8 reads as rewritten:

"**§ 130A-131.8. Laboratory ~~Reports~~ reports.~~of blood levels in children.~~**

(a) All laboratories doing business in this State shall report to the Department all environmental lead test results and blood lead test results for children less than six years of age and for individuals whose ages are unknown at the time of testing. Reports shall be made by electronic submission within five working days after test ~~completion on forms provided by the Department or on self-generated forms containing:~~ completion.

(b) Reports of blood lead test results shall contain all of the following:

(1) ~~the~~ The child's full name, date of birth, sex, race, ethnicity, address, and Medicaid number, if ~~any;~~ any.

(2) ~~the~~ The name, address, and telephone number of the requesting health care ~~provider;~~ provider.

(3) ~~the~~ The name, address, and telephone number of the testing ~~laboratory;~~ laboratory.

(4) ~~the~~ The laboratory results, whether the specimen ~~type—~~type is venous or capillary; the laboratory sample number, and the dates the sample was collected and analyzed. ~~The reports may be made by electronic submissions.~~

(c) Reports of environmental lead test results shall contain all of the following:

(1) The address where the samples were collected.

(2) Sample type, such as dust, paint, soil, or water.

(3) Surface type, such as floor, window sill, or window trough.

(4) Collection location.

(5) The name, address, and telephone number of the testing laboratory.

(6) The laboratory results, unit of measurement, the laboratory sample number, and the dates the sample was collected and analyzed."

SECTION 2. G.S. 130A-248(d) reads as rewritten:

"(d) The Department shall charge each establishment subject to this section, except nutrition programs for the elderly administered by the Division of Aging and Adult Services of the Department of Health and Human Services, establishments that prepare and sell meat food products or poultry products, and public school ~~cafeterias, an annual fee of fifty dollars ($50.00).~~ cafeterias, a fee of fifty dollars ($50.00) for each permit issued. This fee shall be reassessed annually for permits that do not expire. The Commission shall adopt rules to implement this subsection. Fees collected under this subsection shall be used for State and local food, lodging, and institution sanitation programs and activities. No more than thirty-three and one-third percent (33 1/3%) of the fees collected under this subsection may be used to support State health programs and activities."

SECTION 3.(a) Section 2 of S.L. 2007-438 reads as rewritten:

"**SECTION 2.** No later than ~~1 September 2009,~~1 September 2010, the Department of Environment and Natural Resources shall develop and implement a plan to transition the North Carolina Ecosystem Enhancement Program nutrient offset program from a fee-based program to a program based on the actual costs of providing nutrient credits. The new program shall use the least cost alternative for providing nutrient offset credits consistent with rules adopted by the Environmental Management Commission for implementation of nutrient management strategies in the Neuse River Basin and the Tar-Pamlico River Basin."

SECTION 3.(b) Section 5 of S.L. 2007-438 reads as rewritten:

"**SECTION 5.** This act becomes effective 1 September 2007 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. The fee schedule set out in Section 1 of this act expires ~~1 September 2009.~~ 1 September 2010."

SECTION 4. G.S. 105-187.63 reads as rewritten:

"**§ 105-187.63. Use of tax proceeds.**

From the taxes received pursuant to this Article, the Secretary may retain the costs of collection, not to exceed two hundred twenty-five thousand dollars ($225,000) a year, as reimbursement to the Department. The Secretary must credit or distribute taxes received pursuant to this Article, less the cost of collection, on a quarterly basis as follows:

(1) Fifty percent (50%) to the Inactive Hazardous Sites Cleanup Fund established by G.S. 130A-310.11.

(2) Thirty-seven and one-half percent (37.5%) to cities and counties in the State on a per capita basis, using the most recent annual estimate of population certified by the State Budget Officer. One-half of this amount must be distributed to cities, and one-half of this amount must be distributed to counties. For purposes of this distribution, the population of a county does not include the population of a city located in the county.

A city or county is excluded from the distribution under this subdivision if it does not provide solid waste management programs and services and is

not responsible by contract for payment for these programs and services. ~~services, unless it is served by a regional solid waste management authority established under Article 22 of Chapter 153A of the General Statutes.~~ The Department of Environment and Natural Resources must provide the Secretary with a list of the cities and counties that are excluded under this subdivision. The list must be provided by May 15 of each year and applies to distributions made in the fiscal year that begins on July 1 of that year.

Funds distributed under this subdivision must be used by a city or county solely for solid waste management programs and services. ~~A city or county that receives funds under this subdivision and is served by a regional solid waste management authority must forward the amount it receives to that authority.~~

(3) Twelve and one-half percent (12.5%) to the Solid Waste Management Trust Fund established by G.S. 130A-309.12."

SECTION 5. G.S. 113-35.1 is repealed.

PART II. AMEND CERTAIN JORDAN WATER SUPPLY NUTRIENT STRATEGY RULES.

SECTION 6.(a) S.L. 2009-216 is amended by adding a new subsection to read:

"**SECTION 2.(d)** Section 2(b) of this act expires on the date that rules adopted pursuant to Section 2(c) of this act become effective."

SECTION 6.(b) S.L. 2009-216 is amended by adding a new subsection to read:

"**SECTION 3.(k)** Sections 3(c) through 3(i) of this act expire on the date that rules adopted pursuant to Section 3(j) of this act become effective."

SECTION 6.(c) Section 3(k) of S.L. 2009-216 reads as rewritten:

"~~**SECTION 3.(k)**~~**SECTION 3.(l)** No Change to Existing Regulatory Authority. – Nothing in this act shall be construed to limit, expand, or modify the authority of the Commission to undertake alternative regulatory actions otherwise authorized by State or federal law, including, but not limited to, the reclassification of waters of the State pursuant to G.S. 143-214.1, the revision of water quality standards pursuant to G.S. 143-214.3, and the granting of variances pursuant to G.S. 143-215.3."

SECTION 7.(a) S.L. 2009-216 is amended by adding a new section to read:

"**SECTION 5.(a)** Definition. – As used in this section, "New Development Rule 15A NCAC 02B .0265" means 15A NCAC 02B .0265 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development) adopted by the Commission on May 8, 2008, and approved by the Rules Review Commission on November 20, 2008.

"**SECTION 5.(b)** New Development Rule 15A NCAC 02B .0265. – Until the effective date of the revised permanent rule that the Commission is required to adopt pursuant to Section 5(d) of this act, the Commission and the Department shall implement New Development Rule 15A NCAC 02B .0265, as provided in Section 5(c) of this act.

"**SECTION 5.(c)** Implementation. – Notwithstanding sub-subdivision (vii) of sub-subdivision (a) of subdivision (3) of New Development Rule 15A NCAC 02B .0265, New Development Rule 15A NCAC 02B .0265 shall be implemented as follows:

(1) New development that has built-upon area that equals or exceeds twenty-four percent (24%) and that is not subject to more stringent stormwater requirements under S.L. 2006-246 or rules adopted pursuant to G.S. 143-214.5 shall have engineered stormwater controls that meet the design requirements set out in sub-subdivision (iv) of sub-subdivision (a) of subdivision (3) of New Development Rule 15A NCAC 02B .0265 and achieve eighty-five percent (85%) removal of total suspended solids.

(2) A developer may offset part of the nitrogen and phosphorus load from a new development by implementing or funding off-site management measures in accordance with this subdivision. New development shall comply with requirements for engineered stormwater controls as set out in this act and in New Development Stormwater Rule 15A NCAC 02B .0265. On-site stormwater controls shall achieve a maximum nitrogen loading rate that does not exceed six pounds per acre per year for single-family detached and duplex residential development and 10 pounds per acre per year for other development, including multifamily residential, commercial, and industrial. Off-site management measures may be used to offset the difference between the nitrogen and phosphorus loading rates achieved through compliance with the stormwater control requirements of this act and the loading rate targets set out in sub-subdivision (i) of sub-subdivision (a) of subdivision (3) of New Development Rule 15A NCAC 02B .0265. Off-site offsetting measures shall achieve at least the reduction in nitrogen and phosphorus loading equivalent to the remaining reduction needed to comply with the loading rate targets set out in sub-subdivision (i) of sub-subdivision (a) of subdivision (3) of New Development Rule 15A NCAC 02B .0265. A developer may make offset payments to the North Carolina Ecosystem Enhancement Program contingent upon acceptance of payments by that Program. A developer may use an offset option provided by the local government in which the development activity occurs. A developer may propose other offset measures to the local government, including providing his or her own off-site offset or utilizing a private seller. All offset measures identified above shall meet the requirements of subdivisions (2) through (4) of 15A NCAC 02B .0273.

"**SECTION 5.(d)** Additional Rule-Making Authority. – The Commission shall adopt a rule to replace New Development Rule 15A NCAC 02B .0265. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 5(c) of this act. Rules adopted pursuant to this section are not subject to G.S. 150B-21.9 through G.S. 150B-21.14. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

"**SECTION 5.(e)** Sunset. – Section 5(c) of this act expires on the date that rules adopted pursuant to Section 5(d) of this act become effective."

SECTION 7.(b) S.L. 2009-216 is amended by adding a new section to read:

"**SECTION 6.(a)** Definitions. – The following definitions apply to this section and its implementation:

(1) The definitions set out in G.S. 143-212 and G.S. 143-213.

(2) The definitions set out in 15A NCAC 02B .0262 (Jordan Water Supply Nutrient Strategy: Purpose and Scope) and 15A NCAC 02B .0263 (Jordan Water Supply Nutrient Strategy: Definitions).

(3) "State and Federal Rule 15A NCAC 02B .0271" means 15A NCAC 02B .0271 (Jordan Water Supply Nutrient Strategy: Stormwater Requirements for State and Federal Entities), adopted by the Commission on May 8, 2008, and approved by the Rules Review Commission on October 16, 2008.

(4) "Riparian Buffer Rule 15A NCAC 02B .0267" means 15A NCAC 02B .0267 (Jordan Water Supply Nutrient Strategy: Protection of Existing Riparian Buffers), adopted by the Commission on May 8, 2008, and approved by the Rules Review Commission on November 20, 2008.

"**SECTION 6.(b)** State and Federal Rule 15A NCAC 02B .0271. – Until the effective date of the revised permanent rule that the Commission is required to adopt pursuant to Section 6(d)

of this act, the Commission and the Department shall implement the State and Federal Rule 15A NCAC 02B .0271, as provided in Section 6(c) of this act.

"**SECTION 6.(c)** Implementation. – Notwithstanding State and Federal Rule 15A NCAC 02B .0271, the Commission shall implement the State and Federal Rule 15A NCAC 02B .0271 as follows:

(1) The load reduction goal for existing North Carolina Department of Transportation roadway and nonroadway development shall be established as provided in this subdivision. The load reduction goal shall be designed to achieve, relative to the baseline period 1997 through 2001, an eight percent (8%) reduction in nitrogen loading and a five percent (5%) reduction in phosphorus loading reaching Jordan Reservoir from existing roadway and nonroadway development in the Upper New Hope and Haw subwatersheds. The load reduction goal for the Lower New Hope arm shall be designed to maintain no increases in nitrogen and phosphorus loads from existing roadway and nonroadway development relative to the baseline period 1997 through 2001. Load reduction goals for each subwatershed shall be calculated from baseline loads for existing North Carolina Department of Transportation development present during the baseline period. Baseline loads shall be established for roadways and industrial facilities using stormwater runoff nutrient load characterization data collected through the National Pollutant Discharge Elimination System (NPDES) Research Program under NCS0000250 Permit Part II Section G. Baseline loads for other nonroadway development shall be calculated by applying the Tar-Pamlico Nutrient Export Calculation Worksheet, Piedmont Version, dated October 2004, to acreages of nonroadway development under the control of North Carolina Department of Transportation during the baseline period. The baseline load for other nonroadway development may also be calculated using an equivalent or more accurate method acceptable to the Department and recommended by the Scientific Advisory Board established pursuant to Section 4(a) of S.L. 2009-216. The load reduction goal shall be adjusted to account for nutrient loading increases from existing roadway and nonroadway development subsequent to the baseline period but prior to implementation of new development stormwater programs pursuant to 15A NCAC 02B .0271(4)(c).

(2) Sub-subdivision (b) of subdivision (3) and sub-subdivision (d) of subdivision (4) of State and Federal Rule 15A NCAC 02B .0271 shall be implemented as follows:

a. If the March 1, 2014, monitoring report or any subsequent monitoring report for the Upper New Hope Creek Arm of Jordan Reservoir required under Section 3(c) of S.L. 2009-216 shows that nutrient-related water quality standards are not being achieved, State and federal entities shall develop and implement a program to control nutrient loading from existing development within the subwatershed, as provided in this section and State and Federal Rule 15A NCAC 02B .0271. If the March 1, 2017, monitoring report or any subsequent monitoring report for the Haw River Arm or the Lower New Hope Creek Arm of Jordan Reservoir required under Section 3(c) of S.L. 2009-216 shows that nutrient-related water quality standards are not being achieved, State and federal entities shall develop and implement a program to control nutrient loading from existing development within the subwatershed, as provided in this

section and State and Federal Rule 15A NCAC 02B .0271. The Department shall defer development and implementation of a program to control nutrient loading from existing development required in a subwatershed by this sub-subdivision if it determines that additional reductions in nutrient loading from existing development in that subwatershed will not be necessary to achieve nutrient-related water quality standards. In making this determination, the Department shall consider the anticipated effect of measures implemented or scheduled to be implemented to reduce nutrient loading from sources in the subwatershed other than existing development. If any subsequent monitoring report for an arm of Jordan Reservoir required under Section 3(c) of S.L. 2009-216 shows that nutrient-related water quality standards have not been achieved, the Department shall notify each State and federal entity, and each entity shall develop and implement a program to control nutrient loading from existing development as provided in this section and State and Federal Rule 15A NCAC 02B .0271.

b. If the Commission requires additional reductions in nutrient loading from local governments pursuant to Section 3(f) of S.L. 2009-216, the Commission shall require State and federal entities to modify their nutrient reduction programs for the Upper New Hope Creek subwatershed to achieve a total reduction in nitrogen loading from existing roadway and nonroadway development in nitrogen loading from existing development of thirty-five percent (35%) relative to the baseline period 1997-2001.

(3) Notwithstanding sub-subdivision (d) of subdivision (4) of State and Federal Rule 15A NCAC 02B .0271, the North Carolina Department of Transportation may achieve the nutrient load reduction goal in subdivision (1) of this section for existing roadway and nonroadway development under its control by development of a load reduction program that addresses both roadway and nonroadway development in the watershed for each arm of Jordan Reservoir. A combined program to address roadway and nonroadway development may include stormwater retrofits and other load-reducing measures in the watershed including, but not limited to, illicit discharge removal; street sweeping; source control activities such as pet waste reduction and fertilizer management at NCDOT facilities; improvement of existing stormwater structures; alternative stormwater practices such as use of rain barrels and cisterns; stormwater capture and reuse; and purchase of nutrient reduction credits. NCDOT may meet minimum implementation rate and schedule requirements by implementing a combination of three stormwater retrofits per year for existing roadway development in the Jordan Lake watershed and other load-reducing measures identified in the program to control nutrient loading from existing development developed pursuant to State and Federal Entities Rule 15A NCAC 02B .0271 and this act and approved by the Commission.

"**SECTION 6.(d)** Additional Rule-Making Authority. – The Commission shall adopt a rule to replace State and Federal Rule 15A NCAC 02B .0271. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 6(c) of this act. Rules adopted pursuant to this section are not subject to G.S. 150B-21.9 through G.S. 150B-21.14. Rules adopted pursuant to this section shall

become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

"**SECTION 6.(e)** Sunset. – Section 6(c) of this act expires on the date that rules adopted pursuant to Section 6(d) of this act become effective.

"**SECTION 6.(f)** Riparian Buffer Rule 15A NCAC 02B .0267. – Until the effective date of the revised permanent rule that the Commission is required to adopt pursuant to Section 6(h) of this act, the Commission and the Department shall implement the Riparian Buffer Rule 15A NCAC 02B .0267, as provided in Section 6(g) of this act.

"**SECTION 6.(g)** Implementation. – Notwithstanding Riparian Buffer Rule 15A NCAC 02B .0267, the Commission shall implement Riparian Buffer Rule 15A NCAC 02B .0267 as provided in this section.

(1) For purposes of implementing Riparian Buffer Rule 15A NCAC 02B .0267, the Commission may only use one of the following types of maps for purposes of identifying a water body subject to the riparian buffer protection requirements of Riparian Buffer Rule 15A NCAC 02B .0267:

a. The most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United State Department of Agriculture.

b. The most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geological Survey.

c. A map approved by the Geographic Information Coordinating Council and by the Commission. Prior to approving a map under this sub-subdivision, the Commission shall provide a 30-day public notice and opportunity for comment.

(2) Alternative maps approved by the Commission under subdivision (1) of this section shall not be used for buffer delineation on projects that are existing and ongoing within the meaning of subdivision (6) of Riparian Buffer Rule 15A NCAC 02B .0267.

(3) Sub-subdivision a. of subdivision (4) of Riparian Buffer Rule 15A NCAC 02B .0267 shall be interpreted to prohibit only those activities conducted outside the buffer that have the effect of altering the hydrology in violation of the diffuse flow requirements set out in subdivision (8) of Riparian Buffer Rule 15A NCAC 02B .0267.

"**SECTION 6.(h)** Additional Rule-Making Authority. – The Commission shall adopt a rule to replace Riparian Buffer Rule 15A NCAC 02B .0267. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 6(g) of this act. Rules adopted pursuant to this section are not subject to G.S. 150B-21.9 through G.S. 150B-21.14. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

"**SECTION 6.(i)** Sunset. – Section 6(g) of this act expires on the date that rules adopted pursuant to Section 6(h) of this act become effective."

SECTION 8. Sections 5 through 8 of S.L. 2009-216 read as rewritten:

"~~**SECTION 5.**~~**SECTION 7.** No Preemption. – A local government may adopt and implement a stormwater management program that contains provisions that are more restrictive than the standards set forth in Sections ~~2 and 3~~2, 3, and 5 of this act or in any rules concerning stormwater management in the Jordan watershed adopted by the Commission. This section shall not be construed to authorize a local government to impose stormwater management requirements on lands in agriculture or forestry.

"~~**SECTION 6.**~~**SECTION 8.** Construction of Act. –

(1) Except as specifically provided in ~~Sections 2(c) and 3(j)~~Sections 2(c), 3(j), 5(d), and 6(h) of this act, nothing in this act shall be construed to limit, expand, or otherwise alter the authority of the Commission or any unit of local government.

(2) This act shall not be construed to affect any delegation of any power or duty by the Commission to the Department or subunit of the Department.

"~~SECTION 7.~~SECTION 9. Note to Revisor of Statutes. – Notwithstanding G.S. 164-10, the Revisor of Statutes shall not codify any of the provisions of this act. The Revisor of Statutes shall set out the text of Section 2 of this act as a note to G.S. 143-215.1 and may make notes concerning this act to other sections of the General Statutes as the Revisor of Statutes deems appropriate. The Revisor of Statutes shall set out the text of Sections 3, 4, 5, and 6 of this act as a note to G.S. 143-214.7 and may make notes concerning this act to other sections of the General Statutes as the Revisor of Statutes deems appropriate.

"~~SECTION 8.~~SECTION 10. Effective Date. – This act is effective when it becomes law."

PART III. ENVIRONMENTAL TECHNICAL CORRECTIONS.

SECTION 9. G.S. 120-70.61(c) reads as rewritten:

"**§ 120-70.61. Membership; cochairs; vacancies; quorum.**

(c) Except as otherwise provided in this section, a legislative 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 General Assembly 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 legislative 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 office on the Commission. Any vacancy that occurs on the Commission shall be filled in the same manner as the original appointment."

SECTION 10. G.S. 146-64(9) reads as rewritten:

"(9) "Vacant and unappropriated lands" means all State lands title to which is vested in the State as sovereign, and land acquired by the State by virtue of being sold for taxes, except ~~swamplands as hereinafter defined.~~swamplands."

SECTION 11. G.S. 130A-310.11 reads as rewritten:

"**§ 130A-310.11. Inactive Hazardous Sites Cleanup Fund created.**

(a) There is established under the control and direction of the Department the Inactive Hazardous Sites Cleanup Fund. This fund shall be a revolving fund consisting of any monies appropriated for such purpose by the General Assembly or available to it from grants, taxes, and other monies paid to it or recovered by or on behalf of the Department. The Inactive Hazardous Sites Cleanup Fund shall be treated as a nonreverting special trust fund and shall be credited with interest by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3.

(b) Funds credited to the Inactive Hazardous Sites Cleanup Fund pursuant to G.S. 130A-295.9 shall be used only as provided in ~~G.S. 130A-309.295.9(c).~~ G.S. 130A-295.9(1) and G.S. 130A-310.5(c)."

PART IV. REPORTS CONSOLIDATION.

SECTION 12. G.S. 106-744(i) reads as rewritten:

"(i) The Advisory Committee shall report no later than ~~May 1~~ October 1 of each year to the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission, and the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources regarding the activities of the Advisory Committee, the agriculture easements purchased, and agricultural projects funded during the previous year."

SECTION 13. G.S. 113-44.15(c) reads as rewritten:

"(c) Reports. – The North Carolina Parks and Recreation Authority shall report no later than October 1 of each year to the Joint Legislative Commission on Governmental Operations, the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission on allocations from the Trust Fund from the prior fiscal year. ~~The Authority also shall provide a progress report no later than March 15 of each year to the same recipients on the activities of and the expenditures from the Trust Fund for the current fiscal year.~~"

SECTION 14. G.S. 113-77.9(e) reads as rewritten:

"(e) Reports. – The Secretary shall maintain and annually revise ~~twice each year~~ a list of ~~acquisitions~~ grants made pursuant to this Article. The list shall include the acreage of each tract, the county in which the tract is located, the amount ~~paid~~ awarded from the Fund to acquire the tract, and the State department or division responsible for managing the tract. The Secretary shall furnish a copy of the list to each Trustee, the Joint Legislative Commission on Governmental Operations, the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission ~~within 30 days after each revision.~~ no later than October 1 of each year."

SECTION 15. G.S. 143-58.2(f) is repealed.

PART V. EFFECTIVE DATE.

SECTION 16. Sections 12, 13, 14, and 15 of this act become effective January 1, 2010. The remaining sections of this act are effective when this act becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 838*
PROPOSED HOUSE COMMITTEE SUBSTITUTE S838-CSTAf-32 [v.10]

8/4/2009 10:00:19 AM

Short Title: Amend Env Laws/Env Tech Corrects 2009. (Public)

Sponsors:

Referred to:

March 25, 2009

A BILL TO BE ENTITLED

AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS TO: (1) REQUIRE ELECTRONIC REPORTING OF ENVIRONMENTAL LEAD TEST RESULTS AND BLOOD LEAD TEST RESULTS; (2) CLARIFY THE FEE STRUCTURE FOR FOOD AND LODGING PERMITS; (3) REVISE THE SUNSET PROVISION FOR NUTRIENT OFFSET PAYMENTS; (4) AMEND THE SOLID WASTE DISPOSAL TAX TO STREAMLINE THE PROCESS WHEN A LOCAL GOVERNMENT IS SERVED BY A SOLID WASTE MANAGEMENT AUTHORITY; (5) REPEAL THE REQUIREMENT THAT SEASONAL STATE PARK EMPLOYEES WEAR A UNIFORM VEST; (6) CLARIFY IMPLEMENTATION OF NUTRIENT OFFSETS UNDER THE JORDAN LAKE RULES; (7) CLARIFY IMPLEMENTATION OF THE JORDAN LAKE RULES RELATED TO FEDERAL AND STATE ENTITIES; (8) MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO VARIOUS LAWS RELATED TO THE ENVIRONMENT AND NATURAL RESOURCES; AND (9) AMEND OR REPEAL VARIOUS ENVIRONMENTAL REPORTING REQUIREMENTS.

The General Assembly of North Carolina enacts:

PART I. AMEND ENVIRONMENTAL AND NATURAL RESOURCES LAWS.

SECTION 1. G.S. 130A-131.8 reads as rewritten:

"**§ 130A-131.8. Laboratory ~~Reports~~ reports.~~of blood levels in children.~~**

(a) All laboratories doing business in this State shall report to the Department all environmental lead test results and blood lead test results for children less than six years of age and for individuals whose ages are unknown at the time of testing. Reports shall be made by electronic submission within five working days after test ~~completion on forms provided by the Department or on self-generated forms containing:~~ completion.

(b) Reports of blood lead test results shall contain all of the following:

(1) ~~the~~ The child's full name, date of birth, sex, race, ethnicity, address, and Medicaid number, if ~~any;~~ any.

(2) ~~the~~ The name, address, and telephone number of the requesting health care ~~provider;~~ provider.

(3) ~~the~~ The name, address, and telephone number of the testing ~~laboratory;~~ laboratory.

(4) ~~the~~ The laboratory results, whether the specimen ~~type~~ type is venous or capillary; the laboratory sample number, and the dates the sample was collected and analyzed. ~~The reports may be made by electronic submissions.~~

(c) Reports of environmental lead test results shall contain all of the following:

(1) The address where the samples were collected.

(2) Sample type, such as dust, paint, soil, or water.

(3) Surface type, such as floor, window sill, or window trough.

(4) Collection location.

(5) The name, address, and telephone number of the testing laboratory.

(6) The laboratory results, unit of measurement, the laboratory sample number, and the dates the sample was collected and analyzed."

SECTION 2. G.S. 130A-248(d) reads as rewritten:

"(d) The Department shall charge each establishment subject to this section, except nutrition programs for the elderly administered by the Division of Aging of the Department of Health and Human Services, establishments that prepare and sell meat food products or poultry products, and public school ~~cafeterias, an annual fee of fifty dollars ($50.00).~~ cafeterias, a fee of fifty dollars ($50.00) for each permit issued. This fee shall be reassessed annually for permits that do not expire. The Commission shall adopt rules to implement this subsection. Fees collected under this subsection shall be used for State and local food, lodging, and institution sanitation programs and activities. No more than thirty-three and one-third percent (33 1/3%) of the fees collected under this subsection may be used to support State health programs and activities."

SECTION 3.(a) Section 2 of S.L. 2007-438 reads as rewritten:

"**SECTION 2.** No later than ~~1 September 2009,~~1 September 2010, the Department of Environment and Natural Resources shall develop and implement a plan to transition the North Carolina Ecosystem Enhancement Program nutrient offset program from a fee-based program to a program based on the actual costs of providing nutrient credits. The new program shall use the least cost alternative for providing nutrient offset credits consistent with rules adopted by the Environmental Management Commission for implementation of nutrient management strategies in the Neuse River Basin and the Tar-Pamlico River Basin."

SECTION 3.(b) Section 5 of S.L. 2007-438 reads as rewritten:

"**SECTION 5.** This act becomes effective 1 September 2007 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. The fee schedule set out in Section 1 of this act expires ~~1 September 2009.~~ 1 September 2010."

SECTION 4. G.S. 105-187.63 reads as rewritten:

"**§ 105-187.63. Use of tax proceeds.**

From the taxes received pursuant to this Article, the Secretary may retain the costs of collection, not to exceed two hundred twenty-five thousand dollars ($225,000) a year, as reimbursement to the Department. The Secretary must credit or distribute taxes received pursuant to this Article, less the cost of collection, on a quarterly basis as follows:

(1) Fifty percent (50%) to the Inactive Hazardous Sites Cleanup Fund established by G.S. 130A-310.11.

(2) Thirty-seven and one-half percent (37.5%) to cities and counties in the State on a per capita basis, using the most recent annual estimate of population certified by the State Budget Officer. One-half of this amount must be distributed to cities, and one-half of this amount must be distributed to counties. For purposes of this distribution, the population of a county does not include the population of a city located in the county.

A city or county is excluded from the distribution under this subdivision if it does not provide solid waste management programs and services and is

not responsible by contract for payment for these programs and services. ~~services, unless it is served by a regional solid waste management authority established under Article 22 of Chapter 153A of the General Statutes.~~ The Department of Environment and Natural Resources must provide the Secretary with a list of the cities and counties that are excluded under this subdivision. The list must be provided by May 15 of each year and applies to distributions made in the fiscal year that begins on July 1 of that year.

Funds distributed under this subdivision must be used by a city or county solely for solid waste management programs and services. ~~A city or county that receives funds under this subdivision and is served by a regional solid waste management authority must forward the amount it receives to that authority.~~

(3) Twelve and one-half percent (12.5%) to the Solid Waste Management Trust Fund established by G.S. 130A-309.12."

SECTION 5. G.S. 113-35.1 is repealed.

PART II. AMEND CERTAIN JORDAN WATER SUPPLY NUTRIENT STRATEGY RULES.

SECTION 6.(a) S.L. 2009-216 is amended by adding a new section to read:

"**SECTION 2.(d)** Section 2.(b) of this act expires on the date that rules adopted pursuant to Section 2.(c) of this act become effective."

SECTION 6.(b) S.L. 2009-216 is amended by adding a new section to read:

"**SECTION 3.(k)** Sections 3(c) through 3(i) of this act expire on the date that rules adopted pursuant to Section 3.(j) of this act become effective."

SECTION 6.(c). Section 3.(k) of S.L. 2009-216 reads as rewritten:

"~~**SECTION 3.(k)**~~**SECTION 3.(l)** No Change to Existing Regulatory Authority. – Nothing in this act shall be construed to limit, expand, or modify the authority of the Commission to undertake alternative regulatory actions otherwise authorized by State or federal law, including, but not limited to, the reclassification of waters of the State pursuant to G.S. 143-214.1, the revision of water quality standards pursuant to G.S. 143-214.3, and the granting of variances pursuant to G.S. 143-215.3."

SECTION 7.(a) S.L. 2009-216 is amended by adding a new section to read:

"**SECTION 5.(a)** Definition. – As used in this section, "New Development Rule 15A NCAC 02B .0265" means 15A NCAC 02B .0265 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development) adopted by the Commission on May 8, 2008, and approved by the Rules Review Commission on November 20, 2008."

SECTION 5.(b) New Development Rule 15A NCAC 02B .0265. – Until the effective date of the revised permanent rule that the Commission is required to adopt pursuant to Section 5.(d) of this act, the Commission and the Department shall implement New Development Rule 15A NCAC 02B .0265, as provided in Section 5.(c) of this act.

SECTION 5.(c) Implementation. – Notwithstanding sub-subdivision (vii) of sub-subdivision (a) of subdivision (3) of New Development Rule 15A NCAC 02B .0265, New Development Rule 15A NCAC 02B .0265 shall be implemented as follows:

(1) New development that has built-upon area that equals or exceeds 24% and that is not subject to more stringent stormwater requirements under Session Law 2006-246 or rules adopted pursuant to G.S. 143-214.5 shall have engineered stormwater controls that meet the design requirements set out in sub-subdivision (iv) of sub-subdivision (a) of subdivision (3) of New Development Rule 15A NCAC 02B .0265 and achieve 85% removal of total suspended solids.

(2) A developer may offset part of the nitrogen and phosphorus load from a new development by implementing or funding offsite management measures in accordance with this subdivision. New development shall comply with requirements for engineered stormwater controls as set out in this act and in New Development Stormwater Rule 15A NCAC 2B.0265. Onsite stormwater controls shall achieve a maximum nitrogen loading rate that does not exceed six pounds per acre per year for single-family detached and duplex residential development and ten pounds per acre per year for other development, including multi-family residential, commercial, and industrial. Offsite management measures may be used to offset the difference between the nitrogen and phosphorus loading rates achieved through compliance with the stormwater control requirements of this act and the loading rate targets set out in sub-subdivision (i) of sub-subdivision (a) of subdivision (3) of New Development Rule 15A NCAC 02B .0265. Offsite offsetting measures shall achieve at least the reduction in nitrogen and phosphorus loading equivalent to the remaining reduction needed to comply with the loading rate targets set out in sub-subdivision (i) of sub-subdivision (a) of subdivision (3) of New Development Rule 15A NCAC 02B .0265. A developer may make offset payments to the North Carolina Ecosystem Enhancement Program contingent upon acceptance of payments by that Program. A developer may use an offset option provided by the local government in which the development activity occurs. A developer may propose other offset measures to the local government, including providing his or her own offsite offset or utilizing a private seller. All offset measures identified above shall meet the requirements of subdivisions (2) through (4) of 15A NCAC 2B .0273.

SECTION 5.(d) Additional Rule Making Authority. – The Commission shall adopt a rule to replace New Development Rule 15A NCAC 02B .0265. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section, shall be substantively identical to the provisions of Section 5.(c) of this act. Rules adopted pursuant to this section are not subject to G.S. 150B-21.9 through G.S. 150B-21.14. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 1 50B-2 1 .3(b2).

SECTION 5.(e) Sunset. – Section 5.(c) of this act expires on the date that rules adopted pursuant to Section 5.(d) of this act become effective."

SECTION 7.(b) S.L. 2009-216 is amended by adding a new section to read:

"**SECTION 6.(a)** Definitions. – The following definitions apply to this section and its implementation:

(1) The definitions set out in G.S. 143-212 and G.S. 143-213.

(2) The definitions set out in 15A NCAC 02B .0262 (Jordan Water Supply Nutrient Strategy: Purpose and Scope) and 15A NCAC 02B .0263 (Jordan Water Supply Nutrient Strategy: Definitions).

(3) "State and Federal Rule 15A NCAC 02B .0271" means 15A NCAC 02B .0271 (Jordan Water Supply Nutrient Strategy: Stormwater Requirements for State and Federal Entities), adopted by the Commission on May 8, 2008, and approved by the Rules Review Commission on October 16, 2008.

(4) "Riparian Buffer Rule 15A NCAC 02B .0267" means 15A NCAC 02B .0267 (Jordan Water Supply Nutrient Strategy: Protection of Existing Riparian Buffers), adopted by the Commission on May 8, 2008, and approved by the Rules Review Commission on November 20, 2008.

SECTION 6.(b) State and Federal Rule 15A NCAC 02B .0271. – Until the effective date of the revised permanent rule that the Commission is required to adopt pursuant

to Section 6(d) of this act, the Commission and the Department shall implement the State and Federal Rule 15A NCAC 02B .0271, as provided in Section 6(c) of this act.

SECTION 6.(c) Implementation. – Notwithstanding State and Federal Rule 15A NCAC 02B .0271, the Commission shall implement the State and Federal Rule 15A NCAC 02B .0271 as follows:

1. The load reduction goal for existing North Carolina Department of Transportation roadway and non-roadway development shall be established as provided in this subdivision. The load reduction goal shall be designed to achieve, relative to the baseline period 1997 through 2001, an eight percent (8%) reduction in nitrogen loading and a five percent (5%) reduction in phosphorus loading reaching Jordan Reservoir from existing roadway and non-roadway development in the Upper New Hope and Haw subwatersheds. The load reduction goal for the Lower New Hope arm shall be designed to maintain no increases in nitrogen and phosphorus loads from existing roadway and non-roadway development relative to the baseline period 1997 through 2001. Load reduction goals for each subwatershed shall be calculated from baseline loads for existing North Carolina Department of Transportation development present during the baseline period. Baseline loads shall be established for roadways and industrial facilities using stormwater runoff nutrient load characterization data collected through the National Pollutant Discharge Elimination System (NPDES) Research Program under NCS0000250 Permit Part II Section G. Baseline loads for other non-roadway development shall be calculated by applying the Tar-Pamlico Nutrient Export Calculation Worksheet, Piedmont Version, dated October 2004, to acreages of non-roadway development under the control of North Carolina Department of Transportation during the baseline period. The baseline load for other non-roadway development may also be calculated using an equivalent or more accurate method acceptable to the Department and recommended by the Scientific Advisory Board established pursuant to Section 4(a) of S.L. 2009-216. The load reduction goal shall be adjusted to account for nutrient loading increases from existing roadway and non-roadway development subsequent to the baseline period but prior to implementation of new development stormwater programs pursuant to 15A NCAC 02B .0271(4)(c).

(2) Sub-subdivision (b) of subdivision (3) and sub-subdivision (d) of subdivision (4) of State and Federal Rule 15A NCAC 02B .0271 shall be implemented as follows.

a. If the March 1, 2014 monitoring report or any subsequent monitoring report for the Upper New Hope Creek Arm of Jordan Reservoir required under Section 3(c) of S.L. 2009-216 shows that nutrient-related water quality standards are not being achieved, State and federal entities shall develop and implement a program to control nutrient loading from existing development within the subwatershed, as provided in this section and State and Federal Rule 15A NCAC 02B .0271. If the March 1, 2017 monitoring report or any subsequent monitoring report for the Haw River Arm or the Lower New Hope Creek Arm of Jordan Reservoir required under Section 3(c) of S.L. 2009-216 shows that nutrient-related water quality standards are not being achieved, State and federal entities shall develop and implement a program to control nutrient loading from existing development within the subwatershed, as provided in this section and

State and Federal Rule 15A NCAC 02B .0271. The Department shall defer development and implementation of a program to control nutrient loading from existing development required in a subwatershed by this sub-subdivision if it determines that additional reductions in nutrient loading from existing development in that subwatershed will not be necessary to achieve nutrient-related water quality standards. In making this determination, the Department shall consider the anticipated effect of measures implemented or scheduled to be implemented to reduce nutrient loading from sources in the subwatershed other than existing development. If any subsequent monitoring report for an arm of Jordan Reservoir required under Section 3(c) of S.L. 2009-216 shows that nutrient-related water quality standards have not been achieved, the Department shall notify each State and federal entity and each entity shall develop and implement a program to control nutrient loading from existing development as provided in this section and State and Federal Rule 15A NCAC 02B .0271.

b. If the Commission requires additional reductions in nutrient loading from local governments pursuant to Section 3(f) of S.L. 2009-216, the Commission shall require state and federal entities to modify their nutrient reduction programs for the Upper New Hope Creek subwatershed to achieve a total reduction in nitrogen loading from existing roadway and non-roadway development in nitrogen loading from existing development of thirty-five percent (35%) relative to the baseline period 1997-2001.

(3) Notwithstanding sub-subdivision (d) of subdivision (4) of State and Federal Rule 15A NCAC 02B .0271, the North Carolina Department of Transportation may achieve the nutrient load reduction goal in subdivision (1) of this section for existing roadway and non-roadway development under its control by development of a load reduction program that addresses both roadway and non-roadway development in the watershed for each arm of Jordan Reservoir. A combined program to address roadway and non-roadway development may include stormwater retrofits and other load-reducing measures in the watershed including, but not limited to illicit discharge removal; street sweeping; source control activities such as pet waste reduction and fertilizer management at NCDOT facilities; improvement of existing stormwater structures; alternative stormwater practices such as use of rain barrels and cisterns; stormwater capture and reuse; and purchase of nutrient reduction credits. NCDOT may meet minimum implementation rate and schedule requirements by implementing a combination of three (3) stormwater retrofits per year for existing roadway development in the Jordan Lake watershed and other load-reducing measures identified in the program to control nutrient loading from existing development developed pursuant to State and Federal Entities Rule 15A NCAC 2B.0271 and this act and approved by the Commission.

SECTION 6.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to replace State and Federal Rule 15A NCAC 02B .0271. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 6(c) of this act. Rules adopted pursuant to this section are not subject to G.S. 150B-21.9 through G.S. 150B-21.14. Rules adopted

pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 6.(e) Sunset. – Section 6.(c) of this act expires on the date that rules adopted pursuant to Section 6.(d) of this act become effective.

SECTION 6.(f) Riparian Buffer Rule 15A NCAC 02B .0267. – Until the effective date of the revised permanent rule that the Commission is required to adopt pursuant to Section 6(h) of this act, the Commission and the Department shall implement the Riparian Buffer Rule 15A NCAC 02B .0267, as provided in Section 6(g) of this act.

SECTION 6.(g) Implementation. – Notwithstanding Riparian Buffer Rule 15A NCAC 02B .0267, the Commission shall implement Riparian Buffer Rule 15A NCAC 02B .0267 as provided in this section.

(1) For purposes of implementing Riparian Buffer Rule 15A NCAC 02B .0267, the Commission may only use one of the following types of maps for purposes of identifying a water body subject to the riparian buffer protection requirements of Riparian Buffer Rule 15A NCAC 02B .0267:

(a) The most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United State Department of Agriculture.

(b) The most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geological Survey.

(c) A map approved by the Geographic Information Coordinating Council and by the Commission. Prior to approving a map under this sub-subdivision, the Commission shall provide a thirty-day public notice and opportunity for comment.

2. Alternative maps approved by the Commission under subdivision (1) of this section shall not be used for buffer delineation on projects that are existing and ongoing within the meaning of subdivision (6) of Riparian Buffer Rule 15A NCAC 02B .0267.

3. Sub-subdivision (a) of subdivision (4) of Riparian Buffer Rule 15A NCAC 02B .0267 shall be interpreted to prohibit only those activities conducted outside the buffer that have the effect of altering the hydrology in violation of the diffuse flow requirements set out in subdivision (8) of Riparian Buffer Rule 15A NCAC 02B .0267.

SECTION 6.(h) Additional Rule-Making Authority. – The Commission shall adopt a rule to replace Riparian Buffer Rule 15A NCAC 02B .0267. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 6(g) of this act. Rules adopted pursuant to this section are not subject to G.S. 150B-21.9 through G.S. 150B-21.14. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

SECTION 6.(i) Sunset. – Section 6.(g) of this act expires on the date that rules adopted pursuant to Section 6.(h) of this act become effective."

SECTION 8. Sections 5 through 8 of S.L. 2009-216 read as rewritten:

"~~**SECTION 5.**~~**SECTION 7.** No Preemption. – A local government may adopt and implement a stormwater management program that contains provisions that are more restrictive than the standards set forth in Sections ~~2 and 3~~2, 3, and 5 of this act or in any rules concerning stormwater management in the Jordan watershed adopted by the Commission. This section shall not be construed to authorize a local government to impose stormwater management requirements on lands in agriculture or forestry.

~~**SECTION 6.**~~**SECTION 8.** Construction of Act. –

(1) Except as specifically provided in ~~Sections 2(c) and 3(j)~~Sections 2(c), 3(j), 5(d), and 6(h) of this act, nothing in this act shall be construed to limit, expand, or otherwise alter the authority of the Commission or any unit of local government.

(2) This act shall not be construed to affect any delegation of any power or duty by the Commission to the Department or subunit of the Department.

~~**SECTION 7.**~~**SECTION 9.** Note to Revisor of Statutes. – Notwithstanding G.S. 164-10, the Revisor of Statutes shall not codify any of the provisions of this act. The Revisor of Statutes shall set out the text of Section 2 of this act as a note to G.S. 143-215.1 and may make notes concerning this act to other sections of the General Statutes as the Revisor of Statutes deems appropriate. The Revisor of Statutes shall set out the text of Sections 3, 4, 5, and 6 of this act as a note to G.S. 143-214.7 and may make notes concerning this act to other sections of the General Statutes as the Revisor of Statutes deems appropriate.

~~**SECTION 8.**~~**SECTION 10.** Effective Date. – This act is effective when it becomes law."

PART III. ENVIRONMENTAL TECHNICAL CORRECTIONS.

SECTION 9. G.S. 120-70.61(c) reads as rewritten:

"**§ 120-70.61. Membership; cochairs; vacancies; quorum.**

(c) Except as otherwise provided in this section, a legislative 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 General Assembly 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 legislative 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 office on the Commission. Any vacancy that occurs on the Commission shall be filled in the same manner as the original appointment."

SECTION 10. G.S. 146-64 reads as rewritten:

"**§ 146-64. Definitions.**

As used in this Chapter:

...

(8) "Swamplands" means lands too wet for cultivation except by drainage, and includes

a. All State lands which have been or are known as "swamp" or "marsh" lands, "pocosin bay," "briary bay" or "savanna," and which are a part of one swamp exceeding 2,000 acres in area, or which are a part of one swamp 2,000 acres or less in area which has been surveyed by the State; and

b. All State lands which are covered by the waters of any state-owned lake or pond.

(9) "Vacant and unappropriated lands" means all State lands title to which is vested in the State as sovereign, and land acquired by the State by virtue of being sold for taxes, except ~~swamplands as hereinafter defined.~~swamplands.

...."

SECTION 11. G.S. 130A-310.11 reads as rewritten:

"**§ 130A-310.11. Inactive Hazardous Sites Cleanup Fund created.**

(a) There is established under the control and direction of the Department the Inactive Hazardous Sites Cleanup Fund. This fund shall be a revolving fund consisting of any monies appropriated for such purpose by the General Assembly or available to it from grants, taxes, and other monies paid to it or recovered by or on behalf of the Department. The Inactive

Hazardous Sites Cleanup Fund shall be treated as a nonreverting special trust fund and shall be credited with interest by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3.

(b) Funds credited to the Inactive Hazardous Sites Cleanup Fund pursuant to G.S. 130A-295.9 shall be used only as provided in ~~G.S. 130A-309.295.9(c).~~ G.S. 130A-295.9(1) and G.S. 130A-310.5(c)."

PART IV. REPORTS CONSOLIDATION.

SECTION 12. G.S. 106-744(i) reads as rewritten:

"(i) The Advisory Committee shall report no later than ~~May 1~~ October 1 of each year to the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission, and the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources regarding the activities of the Advisory Committee, the agriculture easements purchased, and agricultural projects funded during the previous year."

SECTION 13. G.S. 113-44.15(c) reads as rewritten:

"(c) Reports. – The North Carolina Parks and Recreation Authority shall report no later than October 1 of each year to the Joint Legislative Commission on Governmental Operations, the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission on allocations from the Trust Fund from the prior fiscal year. ~~The Authority also shall provide a progress report no later than March 15 of each year to the same recipients on the activities of and the expenditures from the Trust Fund for the current fiscal year.~~"

SECTION 14. G.S. 113-77.9(e) reads as rewritten:

"(e) Reports. – The Secretary shall maintain and annually revise ~~twice each year~~ a list of ~~acquisitions~~ grants made pursuant to this Article. The list shall include the acreage of each tract, the county in which the tract is located, the amount ~~paid~~ awarded from the Fund to acquire the tract, and the State department or division responsible for managing the tract. The Secretary shall furnish a copy of the list to each Trustee, the Joint Legislative Commission on Governmental Operations, the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission ~~within 30 days after each revision.~~ no later than October 1 of each year."

SECTION 15. G.S. 143-58.2(f) is repealed.

PART V. EFFECTIVE DATE.

SECTION 16. Sections 12, 13, 14, and 15 of this act become effective January 1, 2010. The remaining sections of this act are effective when the act becomes law.

SENATE BILL 838:
Environmental Technical Corrections 2009

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	August 4, 2009
Introduced by:	Senator Albertson	**Prepared by:**	Jennifer Mundt
Analysis of:	PCS to First Edition S838-CSTAf-32		Legislative Analyst

SUMMARY: ***The Proposed Committee Substitute (PCS) for Senate Bill 838 would make several changes to environmental and natural resources laws, would make clarifying, conforming, and technical amendments to various environmental and natural resources laws, and would amend or repeal various environmental reporting requirements.***

[As introduced, this bill was identical to H709, as introduced by Reps. Allen, Gibson, which is currently in Senate Agriculture/Environment/Natural Resources.]

BILL ANALYSIS: The House Committee on Environment and Natural Resources has already given a favorable report to the items in this PCS with the exception of the provisions in Sections 6, 7, 8, 11, and 14. The PCS for Senate Bill 838 would do the following:

ART I. Amend Environmental and Natural Resources Laws.

Section 1 would require all laboratories doing business in the State to report by electronic submission blood lead test results and environmental lead test results for children less than six years of age and for individuals whose ages are unknown at the time of testing pursuant to Part 4 of Article 5 of Chapter 130A of the General Statutes (Lead Poisoning in Children). Section 1 would also make clarifying amendments.

Section 2 would clarify the permit fee structure for temporary food establishments, pushcarts, and mobile food units to provide that a fee of $50.00 is required for each permit issued. Permits authorize these temporary establishments to operate for up to 15 days. Permits for other non-temporary establishments authorize operations for one year and the fees for non-temporary establishments are assessed annually.

Section 3 would extend the term of the fee structure for nutrient offset payments established pursuant to S.L. 2007-438 (Nutrient Offset Program Transition) from September 1, 2009 to September 1, 2010 to provide DENR additional time to transition the nutrient offset program from a fee-based to an actual cost structure.

Section 4 would amend the solid waste disposal tax statutes to streamline the distribution of proceeds to local governments that are served by a regional solid waste management authority.

Section 5 would repeal the requirement that seasonal State Park employees wear a uniform vest during working hours.

ART II. Amend Certain Jordan Water Supply Nutrient Strategy Rules.

Sections 6 and 8 would make clarifying and conforming changes to S.L. 2009-216 (Restore Water Quality in Jordan Reservoir).

Section 7(a) would provide direction for the implementation of the New Development Rule 15A NCAC 02B .0265 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development).

Section 7(b) would provide direction for the implementation of the State and Federal Rule 15A NCAC 02B .0271 (Jordan Water Supply Nutrient Strategy: Stormwater Requirements for State and Federal Entities).

PART III. Environmental Technical Corrections.

Section 9 would amend G.S. 120-70.61(c) to add the word "legislative" before the word "member" in order to differentiate between a legislative member of the Joint Legislative Commission on Seafood and Aquaculture and a public member appointed by the Governor or the Commissioner of Agriculture.

Section 10 would amend G.S. 146-64 to clarify that the definition of vacant and unappropriated lands excludes swamplands as defined in that section.

Section 11 would fix an incorrect internal cross-reference within the statutes that govern the Inactive Hazardous Sites Cleanup Fund.

PART IV. Reports Consolidation.

Section 12 would change the annual reporting date for the Agricultural Development and Farmland Preservation Trust Fund Advisory Committee from May 1 to October 1. This section would become effective January 1, 2010.

Section 13 would delete the requirement that the Parks and Recreation Authority provide a progress report by March 15 of each year.[1] This section would become effective January 1, 2010.

Section 14 would modify the frequency by which the Secretary of the Department of Environment and Natural Resources (DENR) is required to maintain and revise a list of grants awarded with funds from the Natural Heritage Trust Fund from bi-annual to annual. Section 3 would also change the reporting date from "within 30 days after each revision" to "no later than October 1 of each year." This section would become effective January 1, 2010.

Section 15 would repeal the reporting requirement for each State department, institution, agency, community college, and local school administrative unit authorized to purchase materials and supplies, to report to the Division of Pollution Prevention and Environmental Assistance within DENR, the amounts and types of materials and supplies with recycled content that were purchased during the previous fiscal year and its progress toward reaching the goals under G.S. 143-58.3.[2] This section would become effective January 1, 2010.

EFFECTIVE DATE: Except as otherwise noted above, this act is effective when it becomes law.

Mariah Matheson, Research Assistant to this committee, contributed to this summary.

S838-SMTA-76(CSTAf-32) v3

[1] The Parks and Recreation Authority would still be required to submit an annual report on October 1.
[2] G.S. 143-58.3, declares the State's goal to purchase recycled paper and paper products

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

SB 838 A BILL TO BE ENTITLED AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO VARIOUS LAWS RELATED TO THE ENVIRONMENT.

☒ With a favorable report as to the House committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the House committee substitute bill be re-referred to the Committee on FINANCE.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

S 2

SENATE BILL 1020

Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/12/09

Short Title: Upper Neuse River Basin Clean Water Credit. (Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO PROTECT AND RESTORE WATER QUALITY AND QUANTITY IN THE UPPER NEUSE RIVER BASIN, FALLS LAKE, AND OTHER DRINKING WATER SUPPLY RESERVOIRS BY DIRECTING THE ENVIRONMENTAL MANAGEMENT COMMISSION TO PROVIDE CREDIT TO LOCAL GOVERNMENTS, LANDOWNERS, AND OTHERS WHO REDUCE WATER POLLUTION IN THE UPPER NEUSE RIVER BASIN BEFORE PERMANENT RULES ARE ADOPTED.

Whereas, that portion of the Neuse River Basin that is upstream of the Falls Dam and that includes Falls Lake is often referred to as the Upper Neuse River Basin; and

Whereas, the nine drinking water supply reservoirs in the Upper Neuse River Basin provide water for drinking, sanitation, food processing, cooling, industrial processing, and other essential uses for the citizens of Orange, Person, Durham, Granville, and Wake Counties; and

Whereas, the General Assembly enacted S.L. 1997-458, the Clean Water Responsibility and Environmentally Sound Policy Act, to protect and restore the waters of the State in 1997; and

Whereas, the General Assembly enacted S.L. 2005-190, the Clean Lakes Act, to protect and restore the drinking water supply reservoirs of the State in 2005; and

Whereas, the North Carolina Division of Water Quality in the Department of Environment and Natural Resources listed Falls Lake in the Upper Neuse River Basin as impaired waters in 2008, and the U.S. Environmental Protection Agency also classifies Falls Lake as impaired waters due to nutrients and turbidity; and

Whereas, the quality and quantity of the water in the nine drinking water supply reservoirs in the Upper Neuse River Basin are essential to public health, environmental quality, and the economic vitality of the region; and

Whereas, the North Carolina Environmental Management Commission may not develop a nutrient management strategy and rules to implement the nutrient management strategy for the Upper Neuse River Basin by July 1, 2009, as required by law; and

Whereas, delayed development of a nutrient management strategy and rules to implement the nutrient management strategy threatens the quality and quantity of drinking water supply reservoirs in the Upper Neuse River Basin; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) Definition. – For purposes of this section, the term "Upper Neuse River Basin" is that portion of the Neuse River Basin upstream of the Falls Dam, including Falls Lake.

SECTION 1.(b) Credit for Early Adoption. – The Environmental Management Commission shall encourage local governments, landowners, and others to develop, adopt, and implement policies and practices to reduce the runoff and discharge of nitrogen, phosphorus,

sediment, and other pollutants into the surface waters and drinking water supply reservoirs in the Upper Neuse River Basin before it adopts permanent rules to implement the nutrient management strategy and the turbidity strategy for Upper Falls Lake. The Environmental Management Commission shall, in its permanent rules, provide credit for the early implementation of the nutrient management strategy for the Upper Neuse River Basin and the turbidity strategy for Falls Lake to local governments, landowners, and others who implement policies and practices after January 1, 2007, to reduce runoff and discharge of nitrogen, phosphorus, and sediment in the Upper Neuse River Basin.

SECTION 2. Reports. – The Environmental Management Commission shall report its progress in implementing this act to the Environmental Review Commission as part of each quarterly report it makes pursuant to G.S. 143B-282(b).

SECTION 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 1020
Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/12/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1020-CSTA-33 [v.4]

8/3/2009 9:56:31 PM

Short Title: Improve Upper Neuse Basin Water Quality. (Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO PROTECT AND RESTORE WATER QUALITY AND QUANTITY IN THE UPPER NEUSE RIVER BASIN, FALLS LAKE, AND OTHER DRINKING WATER SUPPLY RESERVOIRS BY DIRECTING THE ENVIRONMENTAL MANAGEMENT COMMISSION TO PROVIDE CREDIT TO LOCAL GOVERNMENTS, LANDOWNERS, AND OTHERS WHO REDUCE WATER POLLUTION IN THE UPPER NEUSE RIVER BASIN BEFORE PERMANENT RULES ARE ADOPTED AND TO MODIFY THE NUTRIENT MANAGEMENT STRATEGY AND ADOPT A SEDIMENTATION STRATEGY FOR CERTAIN DRINKING WATER SUPPLY RESERVOIRS.

Whereas, that portion of the Neuse River Basin that is upstream of the Falls Dam and that includes Falls Lake is often referred to as the Upper Neuse River Basin; and

Whereas, the nine drinking water supply reservoirs in the Upper Neuse River Basin provide water for drinking, sanitation, food processing, cooling, industrial processing, and other essential uses for the citizens of Orange, Person, Durham, Granville, and Wake Counties; and

Whereas, the General Assembly enacted S.L. 1997-458, the Clean Water Responsibility and Environmentally Sound Policy Act, to protect and restore the waters of the State in 1997; and

Whereas, the General Assembly enacted S.L. 2005-190, the Clean Lakes Act, to protect and restore the drinking water supply reservoirs of the State in 2005; and

Whereas, the North Carolina Division of Water Quality in the Department of Environment and Natural Resources listed Falls Lake in the Upper Neuse River Basin as impaired waters in 2008, and the U.S. Environmental Protection Agency also classifies Falls Lake as impaired waters due to nutrients and turbidity; and

Whereas, the quality and quantity of the water in the nine drinking water supply reservoirs in the Upper Neuse River Basin are essential to public health, environmental quality, and the economic vitality of the region; and

Whereas, the North Carolina Environmental Management Commission may not develop a nutrient management strategy and rules to implement the nutrient management strategy for the Upper Neuse River Basin by July 1, 2009, as required by law; and

Whereas, delayed development of a nutrient management strategy and rules to implement the nutrient management strategy threatens the quality and quantity of drinking water supply reservoirs in the Upper Neuse River Basin; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) Definition. – For purposes of this section, the term "Upper Neuse River Basin" is that portion of the Neuse River Basin upstream of the Falls Dam, including Falls Lake.

SECTION 1.(b) Credit for Early Adoption. – The Environmental Management Commission shall encourage local governments, landowners, and others to develop, adopt, and implement policies and practices to reduce the runoff and discharge of nitrogen, phosphorus, sediment, and other pollutants into the surface waters and drinking water supply reservoirs in the Upper Neuse River Basin before it adopts permanent rules to implement the nutrient management strategy and the turbidity strategy for Upper Falls Lake. The Environmental Management Commission shall, in its permanent rules, provide credit for the early implementation of the nutrient management strategy for the Upper Neuse River Basin and the turbidity strategy for Falls Lake to local governments, landowners, and others who implement policies and practices after January 1, 2007, to reduce runoff and discharge of nitrogen, phosphorus, and sediment in the Upper Neuse River Basin.

SECTION 1.(c) Reports. – The Environmental Management Commission shall report its progress in implementing this section to the Environmental Review Commission as part of each quarterly report it makes pursuant to G.S. 143B-282(b).

SECTION 2.(a) Section 3 of S.L. 2005-190, as amended by Section 31 of S.L. 2006-259, reads as rewritten:

"**SECTION 3.(a) Applicability of section to certain reservoirs.** – This section applies only to drinking water supply reservoirs that meet all of the following criteria as of 1 July 2005:

(1) The reservoir serves a population greater than 300,000 persons.

(2) The Environmental Management Commission has classified all or any part of the water in the reservoir as a nutrient sensitive water (NSW).

(3) Water quality monitoring data indicates that water quality in the reservoir violates the chlorophyll A standard.

(4) The Division of Water Quality of the Department of Environment and Natural Resources has not prepared or updated a calibrated nutrient response model for the reservoir since 1 July 2002.

SECTION 3.(b) Temporary limitation on increased nutrient loading. – If the Environmental Management Commission determines either that water quality in all or in any part of a drinking water supply reservoir to which this section applies does not meet current water quality standards or that it is likely that water quality will not meet water quality standards at any time prior to 1 July 2010, the Commission shall not make any new or increased nutrient loading allocation to any person who is required to obtain a permit under G.S. 143-215 for an individual wastewater discharge directly or indirectly into that reservoir. This limitation on new or increased nutrient loading allocation shall not be construed to prohibit a person who holds a permit for a wastewater discharge into a drinking water supply reservoir from purchasing a nutrient loading allocation from another person who holds a permit for a wastewater discharge into the same drinking water supply reservoir. This subsection expires with respect to a drinking water supply reservoir when permanent rules adopted by the Commission to implement the nutrient management strategy for that reservoir become effective.

SECTION 3.(c) Nutrient management strategy. – The Environmental Management Commission shall develop a nutrient management strategy for drinking water supply reservoirs to which this section applies by ~~1 July 2009.~~15 January 2011. The nutrient management strategy shall be based on a calibrated nutrient response model that meets the requirement of G.S. 143-215.1(c5). The nutrient management strategy shall include specific mandatory measures to achieve the reduction goals. ~~The Commission shall consider the cost of~~

~~the proposed measures in relation to the effectiveness of the measures.~~In developing the nutrient management strategy, the Commission shall consider the effectiveness of measures previously implemented in the watershed and the cost of the proposed measures in relation to their effectiveness. These measures could include, but are not limited to, buffers, erosion and sedimentation control requirements, post-construction stormwater management, agricultural nutrient reduction measures, the addition of nutrient removal treatment processes to point source permitted wastewater treatment plants, the removal of point source discharging wastewater treatments through regionalization and conversion to non-discharge treatment technologies, measures to address nutrient inputs from on-site wastewater treatment systems, control of atmospheric deposition, allowing the sale and purchase of nutrient offsets, allowing trading of nutrient loading allocations and credits for nutrient reductions, and any other measures that the Commission determines to be necessary to meet the nutrient reduction goals. To the extent that one or more other State programs already mandate any of these measures, the nutrient management strategy shall incorporate the mandated measures and any extension of those measures and any additional measures that may be necessary to achieve the nutrient reduction goals. In making a nutrient loading allocation to a permit holder, the Commission shall, to the extent allowed by federal and State law, give consideration to all voluntary efforts taken by the permit holder to protect water quality prior to the development of the nutrient management strategy.

SECTION 3.(d) Eligibility under the Clean Water Revolving Loan and Grant Act. – The definitions set out in G.S. 159G-3 apply to this subsection. The operator of a wastewater treatment works that is owned by an agency of the State may apply for a loan or grant under Chapter 159G of the General Statutes on the same basis as any other applicant if the operator is a local government unit and if the local government unit operates the wastewater treatment works pursuant to a contract with the State agency that contemplates that the local government unit will eventually acquire ownership of the wastewater treatment works.

SECTION 3.(e) Implementation; rulemaking. – The Environmental Management Commission shall adopt permanent rules to implement the nutrient management strategies required by this section by ~~1 July 2009.~~15 January 2011. The rules shall require that reductions in nutrient loading from all sources begin no later than five years after the rules become effective. The rules shall require that stormwater management programs to reduce nutrient loading from new development be implemented no later than 30 months after the rules become effective.

SECTION 3.(f) Reports. – The Environmental Management Commission shall report its progress in implementing this section to the Environmental Review Commission as a part of each quarterly report it makes pursuant to G.S. 143B-282(b)."

SECTION 2.(b) S.L. 2005-190, as amended by Section 31 of S.L. 2006-259, is amended by adding four new subsections to read:

"**SECTION 3.(g) Compensatory mitigation for riparian buffer loss; nutrient offset purchases.** – Compensatory mitigation for riparian buffer loss in the watershed of a drinking water supply to which this section applies must be performed in the watershed of the drinking water supply. The Environmental Management Commission may further limit the area in which compensatory mitigation for riparian buffer loss must be performed in the watershed of a drinking water supply to which this section applies. Any nutrient offset purchased to offset loading in the watershed of a drinking water supply to which this section applies may only be obtained from an offset project located in the watershed of the drinking water supply. The Environmental Management Commission may further limit the area from which nutrient offsets may be obtained in the watershed of a drinking water supply to which this section applies.

SECTION 3.(h) Additional standards for land disturbing activities in the water supply watershed. – In addition to any other requirements of State, federal, and local

law, land-disturbing activity in the watershed of the water supply reservoir to which this section applies shall meet all of the following design standards for sedimentation and erosion control:

(1) Erosion and sedimentation control measures, structures, and devices shall be planned, designed, and constructed to provide protection from the runoff of the 25-year storm that produces the maximum peak rate of runoff as calculated according to procedures set out in the United States Department of Agriculture Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of the State or the United States or any generally recognized organization or association.

(2) Sediment basins shall be planned, designed, and constructed so that the basin will have a settling efficiency of at least 70 percent (70%) for the 40 micron size soil particle transported into the basin by the runoff of the two-year storm that produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of the State or the United States or any generally recognized organization or association.

(3) Newly constructed open channels shall be planned, designed, and constructed with side slopes no steeper than two horizontal to one vertical if a vegetative cover is used for stabilization unless soil conditions permit steeper slopes or where the slopes are stabilized by using mechanical devices, structural devices, or other acceptable ditch liners. In any event, the angle for side slopes shall be sufficient to restrain accelerated erosion.

(4) For an area of land-disturbing activity where grading activities have been completed, temporary or permanent ground cover sufficient to restrain erosion shall be provided as soon as practicable, but in no case later than seven days after completion of grading. For an area of land-disturbing activity where grading activities have not been completed, temporary groundcover shall be provided for the area if it has not been disturbed for a period of nine days.

SECTION 3.(i) The Department of Environment and Natural Resources, in consultation with the Environmental Management Commission, shall identify improvements needed in the design, operation, and siting of septic tank systems in order to reduce excess nutrient loading from septic tank systems in the watershed of a drinking water supply to which this section applies. The Department shall report its findings and recommendations for specific changes to standards adopted by the Commission for Public Health pursuant to G.S. 130A-355 to the Commission for Public Health and to the Environmental Review Commission no later than March 1, 2010."

SECTION 3.(a) Concurrent with the permanent rule making required by Section 3 of S.L. 2005-190, as amended by Section 31 of S.L. 2006-259 and Section 2.(a) of this act, and pursuant to G.S. 143-215.8B, the Environmental Management Commission shall adopt temporary rules. The Commission shall adopt the temporary rules required by this section by January 15, 2011.

SECTION 3.(b) No later than December 31, 2011, the Sedimentation Control Commission shall adopt rules of statewide applicability for the control of erosion and sedimentation resulting from land-disturbing activities in the watersheds of water supply reservoirs. In developing the rules, the Commission shall consider the standards established pursuant to Section 3(h), as enacted by Section 2.(b) of this act.

SECTION 4. Section 3.(h) of S.L. 2005-190, as enacted by Section 2.(b) of this act, becomes effective January 1, 2010, applies to land-disturbing activities begun on or after January 1, 2010, and expires on the date that rules adopted pursuant to Section 3.(b) of this act become effective. The remaining sections of this act are effective when they become law.

SENATE BILL 1020:
Upper Neuse River Basin Clean Water Credit

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	August 4, 2009
Introduced by:	Senator Stein	**Prepared by:**	Jennifer Mundt
Analysis of:	PCS to Second Edition S1020-CSTA-33		Legislative Analyst

SUMMARY: ***Senate Bill 1020 would direct the Environmental Management Commission to provide credit to local governments, landowners, and others who reduce water pollution in the Upper Neuse River Basin before permanent water quality rules for the Upper Neuse River Basin are adopted.***

The Proposed Committee Substitute (PCS) for Senate Bill 1020 would modify the nutrient management strategy and adopt a sedimentation strategy for the Falls Lake Water Supply Reservoir watershed.

CURRENT LAW: Session Law 2005-190, the Clean Lakes Act, as amended by S.L. 2006-259, directed the Environmental Management Commission (EMC) to develop a nutrient management strategy for the Falls Lake drinking water supply reservoir before July 1, 2009. The nutrient management strategy must provide consideration for all voluntary efforts taken by permit holders to protect water quality prior to the development of the strategy. The EMC did not establish a nutrient management strategy for the Falls Lake drinking water supply reservoir by the July 1, 2009 deadline.

BILL ANALYSIS: Senate Bill 1020 would direct the EMC to encourage local governments, landowners, and others to develop, adopt, and implement policies and practices to reduce the runoff and discharge of nitrogen, phosphorus, and sediment into the surface waters and drinking water supply reservoirs of the Upper Neuse River Basin (Basin) before it adopts permanent rules to implement the nutrient management strategy for Falls Lake. The bill would require the EMC, in its permanent rules, to provide credit to local governments, landowners, and others who implement policies and practices after January 1, 2007 to reduce runoff and discharge of nutrients and sediment in the Basin.

The bill would direct the EMC to report its progress in implementing the credit for early adoption to the Environmental Review Commission as part of its quarterly reporting as required by statute.

The **Proposed Committee Substitute** would amend S.L. 2005-190 (Drinking Water Supply Reservoir Protection), as amended by Section 31 of S.L. 2006-259, by:

- Extending the deadline for the EMC to develop and implement a nutrient management strategy for certain drinking water supply reservoirs from July 1, 2009 to January 15, 2011. This section would also direct the EMC to adopt temporary rules concurrent with permanent rules by January 15, 2011.
- Providing that the rules adopted pursuant to the nutrient management strategy to reduce nutrient loading from new development be implemented no more than 30 months after the rules become effective.
- Authorizing compensatory mitigation for riparian buffer loss and nutrient offset purchases in a watershed of a drinking water supply provided the mitigation or offset is performed or purchased within that watershed.

- Implementing additional sedimentation and erosion control standards for land-disturbing activities in the water supply watershed. This subsection would become effective January 1, 2010 and would expire upon the adoption of rules adopted by the Sedimentation Control Commission (Commission).
- Requiring the Commission to adopt rules of statewide applicability for the control of erosion and sedimentation resulting from land-disturbing activities in watersheds of water supply reservoirs no later than December 31, 2011.
- Requiring DENR, in consultation with the EMC, to identify improvements needed in the design, operation, and siting of septic tank systems in order to reduce nutrient loading from those systems to the water supply watershed. The Department must report its findings and recommendations to the Commission for Public Health and the Environmental Review Commission by March 1, 2010.

EFFECTIVE DATE: Except as otherwise noted above, this act is effective when it becomes law.

S1020-SMTA-77(CSTA-33) v3

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

August 4 , 2009

SPEAKERS: PLEASE SIGN IN BELOW

Name & Title	Representing (Agency/Company)	Bill #	Support/ Oppose
Lisa Merton	NC Home Builders		

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

August 4 , 2009

SPEAKERS: PLEASE SIGN IN BELOW

Name & Title	Representing (Agency/Company)	Bill #	Support/ Oppose
Elizabeth Ouzts	Environment North Carolina	S1020	Support
[illegible]	[illegible]		
[illegible]	NC [illegible]	[illegible]	[illegible]

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — August 4, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Cam Cole	BPMHL
Reid Wilson	Conservation Trust for NC
Debra DeCamillis	UNC-IOG
Andy McDaniel	NCDOT
Greg Thorpe	ncDOT
Johanna Reese	DOT
David Crawford	DIANC
Edgar Miller	CTNC
John Shaw	WWC
Tommy Stevens	NCPC
Mitch Peele	NCFB
Kim Hibbard	NCLM

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — **Name of Committee**

August 4, 2009 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Brian G Moy	Environment NC
Sarah Clapp	NCWRC
Dan Crawford	CCNC
Becky McCorkle	CCNC
Lib Hutchby	Cary, NC
Alissa Biesman	Neuse Riverkeeper Foundation
Jon Carr	Jordan Price Law Firm
Becki Gray	John Locke Foundation
Lisa Martin	NC Home Builders
R. Rud Wilms	WGR

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — August 4, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Steve Wall	DENR
Peter Rumbe	American Rivers
Mike Schlegel	TJCOG
Sam Brewer	BrewerFuelSolutions/Carolina Biodiesel
Lisa Riegel	NHTF
Michael Drake	
Giovanni Ellzey	
Sean Quinn	Sierra Club
Dan Conrad	NCCN
Kat English	NCCN
Margaret Hartzell	Environment North Carolina

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — August 4, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Francis M. Nevils Jr.	DENR
John O'Sean	DENR
Elizabeth Biser	DENR
Alexandra Embry	DENR
Terry L. Pierce	DEH, DENR
Ed Norman	DEH, DENR
John Huisman	NC DWQ DENR
JASON ROBINSON	" "
Rich Gannon	" "
Chuck Wakild	DENR/DWQ
Robin Smith	DENR

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — August 4, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jessi Hayes	NC HBA
Tina Mabe-Pearson	Wake Up Wake County
Paula A. Wolf	Wake UP Wake County
Karen Rindge	Wake UP Wake County

HOUSE PAGES

NAME OF COMMITTEE Environment & Natural Res. DATE 8-4-09

1. Name: Matt Martin
   County: Wake
   Sponsor: Lewis
2. Name: Hannah Osborne
   County: Orange
   Sponsor: Insko
3. Name: Rachael Harris
   County: Beaufort
   Sponsor: Williams
4. Name: Christian Crumpton
   County: Moore
   Sponsor: Boles
5. Name: Zaki Haidary
   County: Wake
   Sponsor: Lucy Allen

SGT-AT-ARM

1. Name: Fred Hines
2. Name: Carlton Adams
3. Name: Frank Prevo
4. Name: David Shearon
5. " James Worth
6. " Young Bae

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

August 6, 2009

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Thursday, August 6, 2009, in room 643 of the Legislative Office Building. Representative Lucy T. Allen presided. Members present were: Representatives Gillespie, Harrison, Justice, Tarleton, and Underhill Vice-Chairs; Representatives K. Alexander, Blackwood, Floyd, Gibson, Haire, Insko, Killian, Martin, McComas, McElraft, Samuelson, Tucker, West, and Womble.

Representative Allen called the meeting to order at 12:01 p.m. She began by introducing the pages: Chase Creech, Catawba County (sponsored by Representative Whilden); Andy Wilson, Mecklenburg County (sponsored by Representative Samuelson); Zaki Haidary, Wake County (sponsored by Representative Allen); and Allyn Carolo-Barr, Cumberland County (sponsored by Representative Lucas). She then recognized the Sergeant-at-arms staff assisting with the meeting: Carlton Adams, Martha Gadison, James Worth, Judy Turner, David Shearon, and Frank Prevo.

First on the agenda was Committee Substitute for SB 1020 - A BILL TO BE ENTITLED AN ACT TO PROTECT AND RESTORE WATER QUALITY AND QUANTITY IN THE UPPER NEUSE RIVER BASIN, FALLS LAKE, AND OTHER DRINKING WATER SUPPLY RESERVOIRS BY DIRECTING THE ENVIRONMENTAL MANAGEMENT COMMISSION TO PROVIDE CREDIT TO LOCAL GOVERNMENTS, LANDOWNERS, AND OTHERS WHO REDUCE WATER POLLUTION IN THE UPPER NEUSE RIVER BASIN BEFORE PERMANENT RULES ARE ADOPTED. This bill had been carried over from the previous meeting. A revised proposed committee substitute was distributed. Representative Killian made a motion that the new PCS be placed before the committee for consideration. This motion passed without objection. Senator Stein was recognized to explain the bill. He pointed out ways that the latest PCS differed from the one the committee had before them on August 4. Following his brief remarks, Representative Allen opened the floor for questions and comments from committee members. Senator Stein, with the assistance of Mel Nevils, Section Chief of the Land Quality Section of the Department of Environment and Natural Resources, was able to address the questions presented by committee members. Representative Harrison made a motion for a favorable report as to the House Committee Substitute Bill, unfavorable to the Senate Committee Substitute Bill. This motion passed without objection.

Next on the agenda was SB 968 - A BILL TO BE ENTITLED AN ACT TO SUPPORT PLANNING FOR MOUNTAIN RESOURCES. Representative Haire was recognized to explain the bill in the absence of Senator Queen, the bill's primary sponsor. Following brief comments by Representative Haire, Representative Tarleton made a motion for a favorable report and recommendation that the bill be referred to the Committee on Finance, if favorable to the Committee on Appropriations. This motion passed unanimously.

The third item on the agenda was Senate Committee Substitute for HB 569 - A BILL TO BE ENTITLED AN ACT TO DIRECT THE DIVISION OF WATER QUALITY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO AUTHORIZE USE OF THREE-SIDED, OPEN-BOTTOM, OR BOTTOMLESS CULVERTS ON PRIVATE PROPERTY, BASED ON SOUND ENGINEERING PRACTICE, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

Representative Gibson was recognized to present the bill. He indicated that the bill had been before the committee on May 12 and had simply been returned to the committee for concurrence. At the request of Representative Samuelson, Jeff Hudson, Committee Counsel, explained that the bill had been brought before the committee for review and recommendation for concurrence with the changes implemented by the Senate. Representative Tarleton made a motion for a recommendation that the House concur. This motion passed unanimously.

Representative Harrison asked that her HB 1354 – AN ACT (1) TO CLARIFY AND EXPAND THE REQUIREMENTS FOR THE PERMITTING OF COMBUSTION PRODUCTS LANDFILLS AND STRUCTURAL FILL FACILITIES IN ORDER TO ADEQUATELY PROTECT THE PUBLIC HEALTH AND THE ENVIRONMENT; (2) TO AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO CHARGE AND COLLECT FEES FROM OPERATORS OF COMBUSTION PRODUCTS LANDFILLS AND STRUCTURAL FILL FACILITIES; (3) TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO REQUIRE MONITORING AND CORRECTIVE ACTION FOR EXISTING COMBUSTION PRODUCTS SURFACE IMPOUNDMENTS, PROHIBIT THE CONSTRUCTION OF NEW COAL COMBUSTION PRODUCTS SURFACE IMPOUNDMENTS, AND PROVIDE FOR THE PHASING OUT OF EXISTING COMBUSTION PRODUCTS SURFACE IMPOUNDMENTS; AND (4) TO REMOVE THE EXEMPTION FROM THE DAM SAFETY ACT FOR EXISTING COMBUSTION PRODUCTS SURFACE IMPOUNDMENTS, be removed from the House Environment and Natural Resources Committee agenda and turned into a study bill.

The final item on the agenda was SB 836 - A BILL TO BE ENTITLED AN ACT TO AMEND OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES REPORTING REQUIREMENTS. Representative Harrison was recognized to explain the bill in the absence of Senator Albertson, the bill's primary sponsor. A proposed committee substitute was distributed. Representative Haire made a motion that the PCS be placed before the committee for consideration. This passed without objection. Representative Harrison indicated HB 1287, relating to recycled mercury, had passed through all House committees as well as the House of Representatives, but had been held up in the Senate. In the interest of time as the end of session drew near, the substance of HB 1287 had been placed in the context of SB 836, which if passed out of the committee, would be sent back to the Senate for concurrence and passage before the end of session. Representative Allen opened the floor for questions and comments from committee members. All questions were addressed by Representative Harrison with the assistance of Elizabeth Biser, representing the Department of Environment and Natural Resources. Representative Haire made a motion for a favorable report as to the House Committee Substitute Bill, which changes the title, unfavorable as to the original bill. This motion passed unanimously.

With no further business to come before the committee, the meeting was adjourned at 12:25 p.m.

Respectfully submitted,

Representative Lucy T. Allen, Chair

Shara Graham, Committee Assistant

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE MEETING

August 6, 2009
12:00 NOON
Room 643 LOB

Representative Lucy T. Allen, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

SB 1020 - Upper Neuse River Basin Clean Water Credits
Primary Sponsor: Sen. Stein

HB 569 - DWQ/Bridge Culvert Standards
Primary Sponsor: Rep. Gibson

HB 1354 - Increase Public Safety for Coal Ash Disposal
Primary Sponsors: Reps. Harrison, Fisher, and Martin

SB 968 - Mountain Resources Planning
Primary Sponsor: Sen. Queen

ADJOURNMENT

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 1020

Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/12/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1020-CSSB-79 [v.3]

8/6/2009 10:55:09 AM

Short Title: Improve Upper Neuse Basin Water Quality. (Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO PROTECT AND RESTORE WATER QUALITY AND QUANTITY IN THE UPPER NEUSE RIVER BASIN, FALLS LAKE, AND OTHER DRINKING WATER SUPPLY RESERVOIRS BY DIRECTING THE ENVIRONMENTAL MANAGEMENT COMMISSION TO PROVIDE CREDIT TO LOCAL GOVERNMENTS, LANDOWNERS, AND OTHERS WHO REDUCE WATER POLLUTION IN THE UPPER NEUSE RIVER BASIN BEFORE PERMANENT RULES ARE ADOPTED AND TO MODIFY THE NUTRIENT MANAGEMENT STRATEGY AND ADOPT A SEDIMENTATION STRATEGY FOR CERTAIN DRINKING WATER SUPPLY RESERVOIRS.

Whereas, that portion of the Neuse River Basin that is upstream of the Falls Dam and that includes Falls Lake is often referred to as the Upper Neuse River Basin; and

Whereas, the nine drinking water supply reservoirs in the Upper Neuse River Basin provide water for drinking, sanitation, food processing, cooling, industrial processing, and other essential uses for the citizens of Orange, Person, Durham, Granville, and Wake Counties; and

Whereas, the General Assembly enacted S.L. 1997-458, the Clean Water Responsibility and Environmentally Sound Policy Act, to protect and restore the waters of the State in 1997; and

Whereas, the General Assembly enacted S.L. 2005-190, the Clean Lakes Act, to protect and restore the drinking water supply reservoirs of the State in 2005; and

Whereas, the North Carolina Division of Water Quality in the Department of Environment and Natural Resources listed Falls Lake in the Upper Neuse River Basin as impaired waters in 2008, and the U.S. Environmental Protection Agency also classifies Falls Lake as impaired waters due to nutrients and turbidity; and

Whereas, the quality and quantity of the water in the nine drinking water supply reservoirs in the Upper Neuse River Basin are essential to public health, environmental quality, and the economic vitality of the region; and

Whereas, the North Carolina Environmental Management Commission may not develop a nutrient management strategy and rules to implement the nutrient management strategy for the Upper Neuse River Basin by July 1, 2009, as required by law; and

Whereas, delayed development of a nutrient management strategy and rules to implement the nutrient management strategy threatens the quality and quantity of drinking water supply reservoirs in the Upper Neuse River Basin; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) Definition. – For purposes of this section, the term "Upper Neuse River Basin" is that portion of the Neuse River Basin upstream of the Falls Dam, including Falls Lake.

SECTION 1.(b) Credit for Early Adoption. – The Environmental Management Commission shall encourage local governments, landowners, and others to develop, adopt, and implement policies and practices to reduce the runoff and discharge of nitrogen, phosphorus, sediment, and other pollutants into the surface waters and drinking water supply reservoirs in the Upper Neuse River Basin before it adopts permanent rules to implement the nutrient management strategy and the turbidity strategy for Upper Falls Lake. The Environmental Management Commission shall, in its permanent rules, provide credit for the early implementation of the nutrient management strategy for the Upper Neuse River Basin and the turbidity strategy for Falls Lake to local governments, landowners, and others who implement policies and practices after January 1, 2007, to reduce runoff and discharge of nitrogen, phosphorus, and sediment in the Upper Neuse River Basin.

SECTION 1.(c) Reports. – The Environmental Management Commission shall report its progress in implementing this section to the Environmental Review Commission as part of each quarterly report it makes pursuant to G.S. 143B-282(b).

SECTION 2.(a) Section 3 of S.L. 2005-190, as amended by Section 31 of S.L. 2006-259, reads as rewritten:

"**SECTION 3.(a) Applicability of section to certain reservoirs.** – This section applies only to drinking water supply reservoirs that meet all of the following criteria as of 1 July 2005:

(1) The reservoir serves a population greater than 300,000 persons.

(2) The Environmental Management Commission has classified all or any part of the water in the reservoir as a nutrient sensitive water (NSW).

(3) Water quality monitoring data indicates that water quality in the reservoir violates the chlorophyll A standard.

(4) The Division of Water Quality of the Department of Environment and Natural Resources has not prepared or updated a calibrated nutrient response model for the reservoir since 1 July 2002.

SECTION 3.(b) Temporary limitation on increased nutrient loading. – If the Environmental Management Commission determines either that water quality in all or in any part of a drinking water supply reservoir to which this section applies does not meet current water quality standards or that it is likely that water quality will not meet water quality standards at any time prior to 1 July 2010, the Commission shall not make any new or increased nutrient loading allocation to any person who is required to obtain a permit under G.S. 143-215 for an individual wastewater discharge directly or indirectly into that reservoir. This limitation on new or increased nutrient loading allocation shall not be construed to prohibit a person who holds a permit for a wastewater discharge into a drinking water supply reservoir from purchasing a nutrient loading allocation from another person who holds a permit for a wastewater discharge into the same drinking water supply reservoir. This subsection expires with respect to a drinking water supply reservoir when permanent rules adopted by the Commission to implement the nutrient management strategy for that reservoir become effective.

SECTION 3.(c) Nutrient management strategy. – The Environmental Management Commission shall develop a nutrient management strategy for drinking water supply reservoirs to which this section applies by ~~1 July 2009.~~15 January 2011. The nutrient management strategy shall be based on a calibrated nutrient response model that meets the requirement of G.S. 143-215.1(c5). The nutrient management strategy shall include specific mandatory measures to achieve the reduction goals. ~~The Commission shall consider the cost of~~

~~the proposed measures in relation to the effectiveness of the measures.~~In developing the nutrient management strategy, the Commission shall consider the effectiveness of measures previously implemented in the watershed and the cost of the proposed measures in relation to their effectiveness. These measures could include, but are not limited to, buffers, erosion and sedimentation control requirements, post-construction stormwater management, agricultural nutrient reduction measures, the addition of nutrient removal treatment processes to point source permitted wastewater treatment plants, the removal of point source discharging wastewater treatments through regionalization and conversion to non-discharge treatment technologies, measures to address nutrient inputs from on-site wastewater treatment systems, control of atmospheric deposition, allowing the sale and purchase of nutrient offsets, allowing trading of nutrient loading allocations and credits for nutrient reductions, and any other measures that the Commission determines to be necessary to meet the nutrient reduction goals. To the extent that one or more other State programs already mandate any of these measures, the nutrient management strategy shall incorporate the mandated measures and any extension of those measures and any additional measures that may be necessary to achieve the nutrient reduction goals. In making a nutrient loading allocation to a permit holder, the Commission shall, to the extent allowed by federal and State law, give consideration to all voluntary efforts taken by the permit holder to protect water quality prior to the development of the nutrient management strategy.

SECTION 3.(d) Eligibility under the Clean Water Revolving Loan and Grant Act. – The definitions set out in G.S. 159G-3 apply to this subsection. The operator of a wastewater treatment works that is owned by an agency of the State may apply for a loan or grant under Chapter 159G of the General Statutes on the same basis as any other applicant if the operator is a local government unit and if the local government unit operates the wastewater treatment works pursuant to a contract with the State agency that contemplates that the local government unit will eventually acquire ownership of the wastewater treatment works.

SECTION 3.(e) Implementation; rulemaking. – The Environmental Management Commission shall adopt permanent rules to implement the nutrient management strategies required by this section by ~~1 July 2009.~~15 January 2011. The rules shall require that reductions in nutrient loading from all sources begin no later than five years after the rules become effective. The rules shall require that stormwater management programs to reduce nutrient loading from new development be implemented no later than 30 months after the rules become effective.

SECTION 3.(f) Reports. – The Environmental Management Commission shall report its progress in implementing this section to the Environmental Review Commission as a part of each quarterly report it makes pursuant to G.S. 143B-282(b)."

SECTION 2.(b) S.L. 2005-190, as amended by Section 31 of S.L. 2006-259, is amended by adding four new subsections to read:

"**SECTION 3.(g) Compensatory mitigation for riparian buffer loss; nutrient offset purchases.** – Compensatory mitigation for riparian buffer loss in the watershed of a drinking water supply to which this section applies must be performed in the watershed of the drinking water supply. The Environmental Management Commission may further limit the area in which compensatory mitigation for riparian buffer loss must be performed in the watershed of a drinking water supply to which this section applies. Any nutrient offset purchased to offset loading in the watershed of a drinking water supply to which this section applies may only be obtained from an offset project located in the watershed of the drinking water supply. The Environmental Management Commission may further limit the area from which nutrient offsets may be obtained in the watershed of a drinking water supply to which this section applies.

SECTION 3.(h) Additional standards for land disturbing activities in the water supply watershed. – For purposes of this section, "land-disturbing activity" does not

include the land-disturbing activities set out in G.S. 113A-52.01. In addition to any other requirements of State, federal, and local law, land-disturbing activity in the watershed of the water supply reservoir to which this section applies shall meet all of the following design standards for sedimentation and erosion control:

(1) Erosion and sedimentation control measures, structures, and devices shall be planned, designed, and constructed to provide protection from the runoff of the 25-year storm that produces the maximum peak rate of runoff as calculated according to procedures set out in the United States Department of Agriculture Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of the State or the United States or any generally recognized organization or association.

(2) Sediment basins shall be planned, designed, and constructed so that the basin will have a settling efficiency of at least 70 percent (70%) for the 40 micron size soil particle transported into the basin by the runoff of the two-year storm that produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of the State or the United States or any generally recognized organization or association.

(3) Newly constructed open channels shall be planned, designed, and constructed with side slopes no steeper than two horizontal to one vertical if a vegetative cover is used for stabilization unless soil conditions permit steeper slopes or where the slopes are stabilized by using mechanical devices, structural devices, or other acceptable ditch liners. In any event, the angle for side slopes shall be sufficient to restrain accelerated erosion.

(4) For an area of land-disturbing activity where grading activities have been completed, temporary or permanent ground cover sufficient to restrain erosion shall be provided as soon as practicable, but in no case later than seven days after completion of grading. For an area of land-disturbing activity where grading activities have not been completed, temporary groundcover shall be provided as follows:

a. For an area with no slope, temporary groundcover shall be provided for the area if it has not been disturbed for a period of 14 days.

b. For an area of moderate slope, temporary groundcover shall be provided for the area if it has not been disturbed for a period of 10 days. For purposes of this subdivision, "moderate slope" means an inclined area, the inclination of which is less than or equal to 3 units of horizontal distance to 1 unit of vertical distance.

c. For an area of steep slope, temporary groundcover shall be provided for the area if it has not been disturbed for a period of seven days. For purposes of this subdivision, "steep slope" means an inclined area, the inclination of which is greater than 3 units of horizontal distance to 1 unit of vertical distance.

SECTION 3.(i) For purposes of this section, "land-disturbing activity" does not include the land-disturbing activities set out in G.S. 113A-52.01. No later than December 31, 2011, the Sedimentation Control Commission shall adopt rules for the control of erosion and sedimentation resulting from land-disturbing activities in the watershed of the water supply reservoir to which this section applies. In developing the rules, the Commission shall consider the standards established pursuant to Section 3(h), as enacted by Section 2.(b) of this act.

SECTION 3.(j) The Department of Environment and Natural Resources, in consultation with the Environmental Management Commission, shall identify improvements needed in the design, operation, and siting of septic tank systems in order to reduce excess nutrient loading from septic tank systems in the watershed of a drinking water supply to which this section applies. The Department shall report its findings and recommendations for specific changes to standards adopted by the Commission for Public Health pursuant to G.S. 130A-355 to the Commission for Public Health and to the Environmental Review Commission no later than March 1, 2010."

SECTION 3. Concurrent with the permanent rule making required by Section 3 of S.L. 2005-190, as amended by Section 31 of S.L. 2006-259 and Section 2.(a) of this act, and pursuant to G.S. 143-215.8B, the Environmental Management Commission shall adopt temporary rules. The Commission shall adopt the temporary rules required by this section by January 15, 2011.

SECTION 4. Section 3.(h) of S.L. 2005-190, as enacted by Section 2.(b) of this act, becomes effective January 1, 2010, applies to land-disturbing activities begun on or after January 1, 2010, and expires on the date that rules adopted pursuant to Section 3.(i) of S.L. 2005-190, as enacted by Section 2.(b) of this act, become effective. The remaining sections of this act are effective when they become law.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒Committee Substitute for
SB 1020 A BILL TO BE ENTITLED AN ACT TO PROTECT AND RESTORE WATER QUALITY AND QUANTITY IN THE UPPER NEUSE RIVER BASIN, FALLS LAKE, AND OTHER DRINKING WATER SUPPLY RESERVOIRS BY DIRECTING THE ENVIRONMENTAL MANAGEMENT COMMISSION TO PROVIDE CREDIT TO LOCAL GOVERNMENTS, LANDOWNERS, AND OTHERS WHO REDUCE WATER POLLUTION IN THE UPPER NEUSE RIVER BASIN BEFORE PERMANENT RULES ARE ADOPTED.

☒ With a favorable report as to House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 3

SENATE BILL 968

State and Local Government Committee Substitute Adopted 4/30/09
Appropriations/Base Budget Committee Substitute Adopted 8/5/09

Short Title: Mountain Resources Planning. (Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO SUPPORT PLANNING FOR MOUNTAIN RESOURCES.

The General Assembly of North Carolina enacts:

SECTION 1. The General Statutes are amended by adding a new Chapter to read:

"**Chapter 153B.**

"**Mountain Resources Planning Act.**

"**§ 153B-1. Short title; findings; purpose.**

(a) Short Title. – This Chapter shall be known and may be cited as the "Mountain Resources Planning Act."

(b) Findings. – The General Assembly finds that:

(1) The beauty and abundant natural resources of the mountain region of Western North Carolina are prized by all North Carolinians. Millions of tourists travel to the mountain region of Western North Carolina to see and experience the natural beauty of the mountains, including the vistas near national parks, national forests, State parks, and State forests. This tourism is vitally important to the economy of Western North Carolina.

(2) The United States Congress has recognized the natural abundance and cultural heritage of the mountain region of Western North Carolina by creating the Blue Ridge National Heritage Area, which, in turn, has established a precedent for successful collaborative planning in the stewardship of important mountain resources.

(3) The same beauty and natural abundance that is valued by North Carolina residents, tourists, and the United States Congress is being adversely affected by land-use practices that are negatively impacting the public's enjoyment of the important mountain resources of the mountain region of Western North Carolina, including publicly owned lands. The mountain region of Western North Carolina is subject to challenges and pressures specific to the topography and environment of the mountains. The mountain region of Western North Carolina has experienced accelerating trends that are adversely affecting important mountain resources, and local governments face challenges as they adapt to new and difficult changes to the landscape.

(c) Purpose. – It is the purpose of this Chapter to encourage quality growth and development while preserving the natural resources, open spaces, and farmland of the mountain region of Western North Carolina.

"**§ 153B-2. Definitions.**

The following definitions apply in this Article:

(1) Commission. – The Mountain Resources Commission created by this Chapter.
(2) Council. – The Mountain Area Technical Advisory Council.
(3) Fund. – The Mountain Area Resources Fund created by this Chapter.
(4) Important mountain resources. – The natural and cultural resources of the mountain region of Western North Carolina, including, but not limited to, State and federal public lands, wildlife habitat, farms, forestland and rural landscapes, mountain vistas, mountain streams and rivers, mountain lakes, and historical and archeological resources.
(5) Mountain region of Western North Carolina. – The area encompassed by the counties of Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Cleveland, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Surry, Swain, Transylvania, Watauga, Wilkes, Yadkin, and Yancey in the State.
(6) Secretary. – The Secretary of the Department of Environment and Natural Resources.

"**§ 153B-3. Mountain Area Resources Fund; State support of local and regional programs.**

(a) Fund Established. – There is established the Mountain Area Resources Fund in the Department of State Treasurer to be used to develop local and regional plans and programs for the protection of the important mountain resources of the mountain region of Western North Carolina. It is the intent of the General Assembly that the Fund shall be used to develop local and regional plans and programs and be used to supplement, not supplant, existing funding to develop local and regional plans and programs.

(b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall be the custodian of the Fund and shall invest its assets in accordance with G.S. 147-69.2 and G.S. 147-69.3. Investment earnings credited to the assets of the Fund shall become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward in the Fund for the next succeeding fiscal year.

"**§ 153B-4. Mountain Resources Commission.**

(a) Creation. – The Mountain Resources Commission is hereby established. The Commission is a permanent body corporate of the State composed of members from the mountain region of Western North Carolina. The Commission shall be located administratively in the Department of Environment and Natural Resources but shall exercise its statutory powers and duties independently of the Department of Environment and Natural Resources. The Commission shall meet in Western North Carolina. Funds appropriated for the Commission by the General Assembly shall be disbursed directly to the Commission at the beginning of each fiscal year.

(b) Purpose. – The purposes and functions of the Mountain Resources Commission are to do all of the following:
(1) Identify and evaluate issues affecting important mountain resources and recommend policies and programs to address those issues.
(2) Coordinate with existing local and regional efforts to address threats to important mountain resources and work undertaken by councils of government and the jurisdictions they serve in the mountain region of Western North Carolina.
(3) Provide a forum for discussion of issues affecting important mountain resources.
(4) Promote communication, coordination, and education among stakeholders within the mountain region of Western North Carolina.

(5) Allocate funds from the Mountain Area Resources Fund to support the development of local and regional plans and programs for the protection of important mountain resources.

(6) Collect research and information from North Carolina and other states and jurisdictions regarding State and regional approaches to coordinating (i) provision of infrastructure for the protection of important mountain resources and (ii) efforts to encourage quality growth to protect such important mountain resources.

(7) Determine whether new strategies or tools would be helpful to address pressures on important mountain resources and whether and how such strategies or tools should be implemented to protect such resources.

(8) Provide guidance and make recommendations to local, State, and federal legislative and administrative bodies and to others as it considers necessary and appropriate for the use, stewardship, and enhancement of important mountain resources.

(c) Authority. – To achieve its purposes, the Commission shall have all of the following powers and duties:

(1) To develop rules and procedures for the conduct of its business or as may be necessary to perform its duties and carry out its objectives, including, but not limited to, calling meetings and establishing voting procedures. Rules and procedures developed pursuant to this subsection shall be effective upon an affirmative vote by a majority of the Commission members.

(2) To establish standing and ad hoc committees. The Commission shall determine the purpose of each standing or ad hoc committee.

(3) To seek, apply for, accept, and expend gifts, grants, donations, services, and other aid from public or private sources. The Commission may accept or expend funds only after an affirmative vote by a majority of the members of the Commission.

(4) To exercise the powers of a body corporate, including the power to sue and be sued, and adopt and use a common seal and alter the same.

(5) To enter into contracts and execute all instruments necessary or appropriate to achieve the purposes of the Commission.

(6) To designate a fiscal agent.

(7) To perform any lawful acts necessary or appropriate to achieve the purposes of the Commission.

(d) Membership. – The Commission shall consist of 17 members as follows:

(1) Two representatives from the public at large who are residents of the mountain region of Western North Carolina appointed by the Speaker of the House of Representatives.

(2) Two representatives from the public at large who are residents of the mountain region of Western North Carolina appointed by the President Pro Tempore of the Senate.

(3) Six representatives from the public at large who are residents of the mountain region of Western North Carolina appointed by the Governor, including:

a. Four who shall at the time of appointment be actively connected with or have experience in local government within the mountain region of Western North Carolina.

b. One who shall at the time of appointment be actively associated with a land trust organization working in Western North Carolina.

c. One who shall at the time of appointment have experience in tourism or tourism development in the mountain region of Western North Carolina.

(4) One member to represent the North Carolina National Parks, Parkway and Forests Development Council.

(5) Five members to represent each of the following regional councils of government as appointed by those councils: the Southwestern North Carolina Planning and Economic Development Commission, the Isothermal Planning and Development Commission, the High Country Council of Governments, the Western Piedmont Council of Governments, and the Land of Sky Regional Council.

(6) One representative appointed by the board of the Blue Ridge National Heritage Area.

The members of the Commission shall elect a chair, vice-chair, and any other officers they consider necessary and shall determine the length of the term of office, not to exceed two years, of each officer. A majority of the Commission shall constitute a quorum. Each member appointed to the Commission shall be appointed to serve a four-year term. Any vacancy on the Commission shall be filled by the original appointing authority for the remainder of the unexpired term. Initial terms commence September 1, 2009.

(e) Salary; Expenses. – Members of the Commission shall receive no salary for their service on the Commission but may receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate. All expenses shall be paid from funds available to the Commission through the Mountain Area Resources Fund, but no expenses shall be paid if the Mountain Area Resources Fund lacks the necessary funds.

(f) Staff Support. – The Department of Environment and Natural Resources shall provide staff support and facilities to the Commission within the existing programs of the agency. Additional staff may be hired or contracted by the Commission through funds raised by or provided to it. The duties and compensation of any additional staff shall be determined and fixed by the Commission within available resources.

(g) State Agency Cooperation. – All agencies of the State of North Carolina shall cooperate with the Commission and, upon request, shall assist the Commission in fulfilling its responsibilities. The Secretary of Environment and Natural Resources or the Secretary's designee shall serve as the liaison between the Secretary's agency and the Commission. The Commission may obtain information and data upon request from all officers, agents, agencies, and departments of the State of North Carolina or of local governments while in discharge of its duties.

(h) The Commission shall work in partnership with the Blue Ridge National Heritage Area to protect the important mountain resources across the mountain region of Western North Carolina.

(i) The role of the Commission is advisory in nature and in no way shall the Commission be construed to have regulatory authority.

"§ 153B-5. Mountain Area Resources Technical Advisory Council.

(a) Creation. – There is hereby created a council to be known as the Mountain Area Resources Technical Advisory Council.

(b) The Council shall consist of not more than 13 members appointed by the Mountain Resources Commission to include environmental, engineering, planning, and State and local government professionals with expertise and experience to contribute to the work of the Commission.

(c) Functions and Duties. – The Council shall assist the Commission in an advisory capacity. The Council shall meet on such schedule and provide such assistance as may be requested of it by the Commission.

(d) Members; Multiple Offices. – Membership on the Mountain Area Resources Technical Advisory Council is hereby declared to be an office that may be held concurrently with other elective or appointive offices (except the office of Commission member) in addition to the maximum number of offices permitted to be held by one person under G.S. 128-1.1.

(e) Chairman and Vice-Chairman. – A chairman and vice-chairman shall be elected annually by the Council.

(f) Compensation. – The members of the Advisory Council who are not State employees may receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5. All expenses shall be paid from funds available to the Commission through the Mountain Area Resources Fund, but no expenses shall be paid if the Mountain Area Resources Fund lacks the necessary funds."

SECTION 2. This act is effective when it becomes law.

SENATE BILL 968:
Mountain Resources Planning

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Finance, if favorable, Appropriations	**Date:**	August 6, 2009
Introduced by:	Sen. Queen	**Prepared by:**	Barbara Riley Committee Counsel
Analysis of:	Third Edition		

SUMMARY: ***Senate Bill 968 establishes the Mountain Resources Commission for the purpose of encouraging quality growth and development while preserving the natural resources of the mountain region of North Carolina. It also creates the Mountain Resources Fund for the purpose of developing local and regional plans for the protection of the important mountain resources of Western North Carolina. The bill does not contain an appropriation for the work of the Commission.***

BILL ANALYSIS: Senate Bill 968 creates a 17 member Mountain Resources Commission as a permanent body corporate of the State located administratively in the Department of Environment and Natural Resources (Department). The Commission will exercise its powers and duties independently of the Department. Membership on the Commission would be comprised of:

Two members from the public at large who are residents of the mountain region appointed by the Speaker.

- Two members from the public at large who are residents of the mountain region appointed by the President Pro Tem.
- Six members from the public, residents of the mountain region, appointed by the Governor;
    - Four who are actively connected or have experience in local government in the mountain region.
    - One who is actively associated with a land trust organization working in the mountain region.
    - One who has experience in tourism / tourism development in the mountain region.
- One member to represent the North Carolina National Parks, Parkway, and Forest Development Council.
- Five members representing the various regional councils of governments.
- One member appointed by the board of the Blue Ridge National Heritage Area.

The purpose of the Commission is to:

- Identify and evaluate issues affecting important mountain resources.
- Coordinate with local and regional efforts to address threats those resources.
- Provide a forum for discussing issues affecting important mountain resources.
- Promote communication, coordination and education among stakeholders.

- Allocate money from the Mountain Resources Fund.
- Collect research and information from North Carolina and other states regarding State and regional approaches coordinating provision of infrastructure for the protection of resources
- Promote efforts to encourage quality growth, investigate new strategies to address pressure on important mountain resources, and provide guidance to local, State, and federal legislative and administrative bodies and others, regarding the use, stewardship, and enhancement of mountain resources.

To achieve its stated purposes, the Commission must develop rules for the conduct of its business, may seek, apply and expend gifts, grants, and donations, exercise the powers of a body corporate, enter into contracts, designate a fiscal agent, and perform any lawful acts necessary or appropriate to achieve its purposes.

Members of the Commission would not receive a salary but would receive per diem, subsistence, and travel allowances as provide by statute. The Department must provide staff support and facilities and the Commission is authorized to hire additional staff using funds raised by or provided to it. All agencies of the State are to cooperate with the Commission and on request, assist the Commission in fulfilling its responsibilities. The Secretary of the Department or his designee would serve as liaison between Department and the Commission.

Senate Bill 968 also establishes the Mountain Resources Fund in the Office of State Treasurer. The fund is to be used to develop local and regional plans and programs for the protection of the important mountain resources of the mountain region of Western North Carolina. The bill provides that it is the intent of the General Assembly to supplement, and not supplant, existing funding to develop local and regional plans. The State Treasurer must hold the monies in the Fund separate from other money and accounts and must invest the money in accordance with G.S. 147-69.2 and 69.3. Investment earnings on the fund become part of the Fund. Balances remaining at the end of the fiscal year must be carried forward.

Senate Bill 968 further creates the Mountain Resources Technical Advisory Council which would consist of up to 13 members appointed by the Mountain Resources Commission. The members must include environmental, engineering, planning, and State and local government professionals who have expertise and experience to contribute to the work of the Commission. The Advisory Council must assist the Commission in an advisory capacity. Membership on the Advisory Council is an office that may be held concurrently with other elective or appointive offices (except the office of Commission member). Members of the Council who are not State employees would receive per diem, subsistence, and travel expenses in accordance with G.S. 138-5.

EFFECTIVE DATE: The act is effective when it becomes law.

S968-SMRF-158(e3) v1

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒Committee Substitute # 2 for

SB 968 A BILL TO BE ENTITLED AN ACT TO SUPPORT PLANNING FOR MOUNTAIN RESOURCES.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on FINANCE, if favorable to the Committee on APPROPRIATIONS.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ The bill/resolution is re-referred to the Committee on _____.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 4

HOUSE BILL 569

Committee Substitute Favorable 5/12/09
Third Edition Engrossed 5/13/09
Senate Agriculture/Environment and Natural Resources Committee Substitute Adopted 6/30/09

Short Title: DWQ/Bridge Culvert Standards. (Public)

Sponsors:

Referred to:

March 16, 2009

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DIVISION OF WATER QUALITY IN THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO AUTHORIZE THE USE OF THREE-SIDED, OPEN-BOTTOM, OR BOTTOMLESS CULVERTS ON PRIVATE PROPERTY, BASED ON SOUND ENGINEERING PRACTICES, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-215.9C. Use of certain types of culverts allowed.**

(a) The Division of Water Quality in the Department of Environment and Natural Resources shall allow the use of structures known as three-sided, open-bottom, or bottomless culverts. A culvert authorized under this section shall be designed, constructed, and installed so that it satisfies all of the following requirements:

(1) Adheres to professional engineering standards and sound engineering practices.

(2) To the extent practicable, minimizes the erosive velocity of water.

(3) Has an inside that is greater than or equal to 1.2 times the bankfull width of the spanned waterbody. For purposes of this subdivision, "bankfull width" means the width of the stream where over-bank flow begins during a flood event.

(b) The Division shall allow the use of culverts authorized under this section throughout the State and may not limit their use to locations where they must be tied into bedrock. Culverts authorized under this section may only be used on private property and may not be transferred to, or operated or maintained by, the Department of Transportation."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 569:
DWQ/Bridge Culvert Standards

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	August 6, 2009
Introduced by:	Representative Gibson	**Prepared by:**	Jennifer Mundt
Analysis of:	Fourth Edition		Legislative Analyst

SUMMARY: ***House Bill 569 would direct the Division of Water Quality in the Department of Environment and Natural Resources to authorize the use of three-sided, open-bottom, or bottomless culverts on private property, based on sound engineering practice.***

BILL ANALYSIS: The 4th Edition of House Bill 569 is very similar in substance to the bill that passed out of the House in that it would:

- Direct the Division of Water Quality (Division) in the Department of Environment and Natural Resources to allow the use of three-sided, open-bottom, or bottomless culverts that are designed, constructed, and installed so as to meet the following requirements:
  - Adheres to professional engineering standards and sound engineering practices.
  - Minimizes the erosive velocity of water to the extent practicable.

  Provide that the Division may not limit use of three-sided, open-bottom, or bottomless culverts to locations where they must be tied into bedrock.
- Provide that culverts authorized under this legislation may only be used on private property and may not be transferred to, or operated or maintained by, the Department of Transportation.

The ***4th Edition of House Bill 569*** differs from the version of bill that passed out of the House by requiring three-sided, open-bottom, or bottomless culverts, in addition to the criteria listed above, to have an inside that is greater than or equal to 1.2 times the bankfull width of the spanned waterbody. "Bankfull width" is defined to mean the width of the stream where over-bank flow begins during a flood event.

EFFECTIVE DATE: This act is effective when it becomes law.

Giles Perry, Counsel to the House Committee on Transportation, and Jeff Hudson substantially contributed to this summary.

H569-SMTA-80(e4) v2

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒ Senate Committee Substitute for

~~HB~~ 569 A BILL TO BE ENTITLED AN ACT TO DIRECT THE DIVISION OF WATER QUALITY IN THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO AUTHORIZE THE USE OF THREE-SIDED, OPEN-BOTTOM, OR BOTTOMLESS CULVERTS ON PRIVATE PROPERTY, BASED ON SOUND ENGINEERING PRACTICES, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

☒ With recommendation that the House concur.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

HOUSE BILL 1354

Short Title:	Increase Public Safety for Coal Ash Disposal.	(Public)
Sponsors:	Representatives Harrison, Fisher, Martin (Primary Sponsors); Glazier, Harrell, Insko, Luebke, and Weiss.	
Referred to:	Public Utilities, if favorable, Environment and Natural Resources, if favorable, Finance.	

April 9, 2009

A BILL TO BE ENTITLED

AN ACT (1) TO CLARIFY AND EXPAND THE REQUIREMENTS FOR THE PERMITTING OF COMBUSTION PRODUCTS LANDFILLS AND STRUCTURAL FILL FACILITIES IN ORDER TO ADEQUATELY PROTECT THE PUBLIC HEALTH AND THE ENVIRONMENT; (2) TO AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO CHARGE AND COLLECT FEES FROM OPERATORS OF COMBUSTION PRODUCTS LANDFILLS AND STRUCTURAL FILL FACILITIES; (3) TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO REQUIRE MONITORING AND CORRECTIVE ACTION FOR EXISTING COMBUSTION PRODUCTS SURFACE IMPOUNDMENTS, PROHIBIT THE CONSTRUCTION OF NEW COAL COMBUSTION PRODUCTS SURFACE IMPOUNDMENTS, AND PROVIDE FOR THE PHASING OUT OF EXISTING COMBUSTION PRODUCTS SURFACE IMPOUNDMENTS; AND (4) TO REMOVE THE EXEMPTION FROM THE DAM SAFETY ACT FOR EXISTING COMBUSTION PRODUCTS SURFACE IMPOUNDMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-290(a)(2b) reads as rewritten:

"(2b) "Combustion products" means the solid and liquid waste generated by the burning of coal and the solid and liquid waste that is generated through the process of controlling the emissions that result from the burning of coal. "Combustion products" includes the residuals, including fly ash, bottom ash, boiler slag, scrubber sludge, mill rejects, and flue gas desulfurization residue produced by a coal-fired generating ~~unit.~~unit or produced by any other burning of coal for commercial purposes. "Combustion products" also includes waste from fluidized bed combustion and any other waste that is uniquely associated with the burning of coal, often by being mixed with the ash, slag, or sludge."

SECTION 2. G.S. 130A-290(a)(2c) reads as rewritten:

"(2c) "Combustion products landfill" means a facility or unit for the disposal of combustion ~~products, where the landfill is located at the same facility with the coal-fired generating unit or units producing the combustion products, and where the landfill is located wholly or partly on top of a facility that is, or was, being used for the disposal or storage of such combustion products, including, but not limited to, landfills, wet and dry ash ponds, and structural~~

~~fill facilities.~~products. "Combustion products landfill" does not include a combustion products surface impoundment."

SECTION 3. G.S. 130A-290(a) is amended by adding a new subdivision to read:

"(2d) "Combustion products surface impoundment" means a topographic depression, excavation, or diked area that is primarily formed from earthen materials, that is either lined or unlined, and that is designed to hold accumulated combustion products in the form of liquid wastes, wastes containing free liquids, or sludges, and that is not backfilled or otherwise covered during periods of deposition. "Combustion products surface impoundment" includes an impoundment that is dry due to the deposited liquid having evaporated, volatilized, or leached. "Combustion products surface impoundment" includes an impoundment that is wet with exposed liquid. "Combustion products surface impoundment" includes lagoons, ponds, aeration pits, settling ponds, tailings ponds, and sludge pits, when these structures are designed to hold accumulated combustion products. "Combustion products surface impoundment" includes a combustion products surface impoundment that has been covered with soil after the final deposition of combustion products at the impoundment."

SECTION 4. G.S. 130A-295.4 reads as rewritten:

"**§ 130A-295.4. Combustion products landfills.**

(a) The definitions set out in G.S. 130A-290(a) apply to this section.

(b) The Department may permit a combustion products landfill to be ~~constructed partially or entirely within areas that have been formerly used for the storage or disposal of combustion products at the same facility as the coal-fired generating unit that generates the combustion products, provided the~~constructed or expanded, provided the permit includes all of the following conditions:

(1) No waste disposal unit of the landfill shall be constructed or expanded within any of the following:

a. A 100-year floodplain or land removed from a 100-year floodplain designation pursuant to 44 Code of Federal Regulations Part 72 (1 October 2006 Edition) as a result of man-made alterations within the floodplain such as the placement of fill, except as authorized by variance granted under G.S. 143-215.54A(b). This subdivision does not apply to land removed from a 100-year floodplain designation (i) as a result of floodplain map corrections or updates not resulting from man-made alterations of the affected areas within the floodplain, or (ii) pursuant to 44 Code of Federal Regulations Part 70 (1 October 2006 Edition) by a letter of map amendment.

b. A wetland, fault area, seismic impact zone, unstable area, or karst terrain.

(2) No waste disposal unit of the landfill shall be constructed or expanded beneath the seasonal high groundwater table.

(3) Each waste disposal unit of the landfill ~~is~~ shall be constructed or expanded with a bottom liner system ~~consisting~~ that provides for dual liners and that satisfies the additional requirements under subsection (b1) of this section.

(4) Each waste disposal unit of the landfill shall have a cap or cover that is designed to minimize air pollutants and leaching and to protect surface waters.

(5) Each disposal unit of the landfill shall be constructed or expanded to have at least one upgradient well and at least three downgradient wells to provide

groundwater monitoring in accordance with subdivision (5) of this subsection.

(6) Each disposal unit of the landfill shall be consistently monitored for groundwater contamination, and this monitoring shall include comprehensive testing for constituents of combustion products.

(7) Each permit shall be subject to the environmental compliance provisions of 130A-295.3 and the siting requirements for sanitary landfills under G.S. 130A-295.6(b) through G.S. 130A-295.6(d).

(8) Each permit shall include a response plan that satisfies the additional requirements under subsection (c) of this section.

(9) Each applicant for a permit shall satisfy the financial responsibility requirements of G.S. 130A-295.2 and shall also show the financial ability to clean up any pollution that results from the placement of combustion products into the environment.

(b1) The bottom liner system of a combustion products landfill shall consist of three components in accordance with this section. Of the required three components, the upper two components shall consist of two separate flexible membrane liners, with a leak detection system and a fluid landfill waste collection and removal system between the two liners. The third component shall consist of a minimum of two feet of soil underneath the bottom of those liners, with the soil having a maximum permeability of 1×10^{-7} centimeters per second. The flexible membrane liners shall have a minimum thickness of thirty one-thousandths of an inch (0.030"), except that liners consisting of high-density polyethylene shall be at least sixty one-thousandths of an inch (0.060") thick. The lower flexible membrane liner shall be installed in direct and uniform contact with the compacted soil layer. The Department may approve an alternative to the soil component of the composite liner system if the Department finds, based on modeling, that the alternative liner system will provide an equivalent or greater degree of impermeability.

(c) An applicant for a permit for a combustion products landfill shall develop and provide to the Department a response plan, which shall describe the circumstances under which corrective measures are to be taken at the landfill in the event of exceedances of permitted levels of coal combustion products constituents based on monitoring well data or the detection of leaks in the leak detection system between the upper two liner components at amounts exceeding an amount specified in the response plan (as expressed in average gallons per day per acre of landfill, defined as an Action Leakage Rate). The response plan shall also describe the remedial actions that the landfill is required to undertake in response to detection of leakage in amounts in excess of the Action Leakage Rate. Remedial action under this subsection is not complete until water quality standards at the monitoring wells have been restored and maintained for at least three consecutive years. The Department shall review the response plan as a part of the permit application for the landfill. Compliance with performance of the landfill to prevent releases of waste to the environment ~~may~~ shall be determined based on leakage rate ~~rather than~~ and monitoring well data.

(d) The Department may charge and collect fees from operators of combustion products landfills permitted under this section. All fees collected under this section shall be credited to the Solid Waste Management Account and shall be used to support the solid waste management program established pursuant to G.S. 130A-294.

(e) Beginning January 1, 2010, no person shall construct a combustion products surface impoundment.

(f) For the purpose of protecting human health and the environment, the Department shall require monitoring and corrective action for combustion products landfills and combustion products surface impoundments that were constructed before January 1, 2010. The

Department shall develop a program for the phasing out of combustion products surface impoundments that were constructed before January 1, 2010.

(g) Any provision of this section or any rules adopted pursuant to this section are subject to any provision of federal law or regulation that is more restrictive."

SECTION 5. Part 2 of Article 9 of Chapter 130A of the General Statutes is amended by adding the following new section to read:

"**§ 130A-295.3A. Structural fill facilities; beneficial end uses of combustion products.**

(a) The definitions set out in G.S. 130A-290(a) apply to this section. In addition, as used in this section, the following definitions apply:

(1) "Beneficial end use" means projects promoting public health and environmental protection, offering equivalent success relative to other alternatives, and preserving natural resources. Beneficial end use of combustion products means the procedure whereby combustion products are directly used either:

a. As an ingredient in an industrial process to make a product, unless distinct components of the combustion products are recovered as separate end products.

b. In a function or application as an effective substitute for a commercial product or natural resource.

(2) "Structural fill" means an engineered fill with a projected beneficial end use that is constructed using products that are properly placed and compacted.

(b) The Department shall develop a permit system governing the establishment, operation, and closure of structural fill facilities. The permit shall also address the siting, design, construction, and recordation of structural fill facilities. The permit shall be subject to the environmental compliance provisions of G.S. 130A-295.3 and the siting requirement for sanitary landfills under G.S. 130A-295.6(b) through G.S. 130A-295.6(d). The permit shall require monitoring, including monitoring of leachate for any heavy metals that could be present in coal ash. The permit shall require corrective action for any environmental damage associated with the facility.

(c) The Department may charge and collect fees from operators of structural fill facilities permitted under subsection (b) of this section. All fees collected under this section shall be credited to the Solid Waste Management Account and shall be used to support the solid waste management program established pursuant to G.S. 130A-294.

(d) The Department may permit the beneficial end use of combustion products. Permitted uses shall be only those uses that are considered safe by conservative engineering and water quality protection standards.

(e) The Department may adopt rules to implement this section.

(f) Any provision of this section or any rules adopted pursuant to this section are subject to any provision of federal law or regulation that is more restrictive."

SECTION 6. G.S. 143-215.25A(a) reads as rewritten:

"(a) Except as otherwise provided in this Part, this Part does not apply to any dam:

(1) Constructed by the United States Army Corps of Engineers, the Tennessee Valley Authority, or another agency of the United States government, when the agency designed or approved plans for the dam and supervised its construction.

(2) Constructed with financial assistance from the United States Soil Conservation Service, when that agency designed or approved plans for the dam and supervised its construction.

(3) Licensed by the Federal Energy Regulatory Commission, or for which a license application is pending with the Federal Energy Regulatory Commission.

~~(4) For use in connection with electric generating facilities under the jurisdiction of the North Carolina Utilities Commission, except that a dam operated by a small power producer, as defined in G.S. 62-3(27a), shall be subject to the provisions of this Part even though the dam is constructed pursuant to a certificate of public convenience and necessity issues by the North Carolina Utilities Commission.~~

(5) Under a single private ownership that provides protection only to land or other property under the same ownership and that does not pose a threat to human life or property below the dam.

(6) That is less than 15 feet in height or that has an impoundment capacity of less than 10 acre-feet, unless the Department determines that failure of the dam could result in loss of human life or significant damage to property below the dam."

SECTION 7. The duty of regulating combustion products surface impoundments, as defined in G.S. 130A-290, as amended by Section 3 of this act, shall be transferred from the North Carolina Utilities Commission to the Department of Environment and Natural Resources, Division of Waste Management.

SECTION 8. This act becomes effective January 1, 2010.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 836*
PROPOSED HOUSE COMMITTEE SUBSTITUTE S836-CSTA-36 [v.1]

8/6/2009 11:49:52 AM

Short Title: Recycle products containing mercury. (Public)

Sponsors:

Referred to:

March 25, 2009

A BILL TO BE ENTITLED

AN ACT TO REQUIRE ALL PUBLIC AGENCIES TO RECYCLE ALL SPENT FLUORESCENT LIGHTS AND MERCURY THERMOSTATS; REQUIRE THE REMOVAL OF ALL FLUORESCENT LIGHTS AND MERCURY THERMOSTATS FROM BUILDINGS PRIOR TO DEMOLITION; AND BAN MERCURY-CONTAINING PRODUCTS FROM UNLINED LANDFILLS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 7. Management of Certain Products That Contain Mercury.

"**§ 130A-310.60. Recycling required by public agencies.**

(a) Each State agency, including the General Assembly, the General Court of Justice, universities, community colleges, public schools, and political subdivisions using State funds shall establish a program in cooperation with the Department of Environment and Natural Resources and the Department of Administration for the collection and recycling of all spent fluorescent lights and thermostats that contain mercury generated in public buildings. The program shall include procedures for convenient collection, safe storage, and proper recycling of spent fluorescent lights and thermostats that contain mercury and contractual or other arrangements with buyers of the recyclable materials.

(b) Each State agency, including the General Assembly, the General Court of Justice, universities, community colleges, the Department of Public Instruction on behalf of the public schools, and political subdivisions shall submit a report on or before February 1, 2010, that documents the entity's compliance with the requirements of subsection (a) of this section to the Department of Environment and Natural Resources and the Department of Administration. The Departments shall compile the information submitted and jointly shall submit a report to the Environmental Review Commission on or before May 1, 2010, concerning the activities required by subsection (a) of this section. The information provided shall also be included in the report required by G.S. 130A-309.06(c).

"**§ 130A-310.61. Removal and recycling of mercury-containing products from structures to be demolished.**

Prior to demolition of any building or structure in the State, the contractor responsible for the demolition activity or the owner of the building or structure to be demolished shall remove all fluorescent lights and thermostats that contain mercury from the building or structure to be demolished."

SECTION 2. G.S. 130A-309.10 is amended by adding a new subsection to read:

"(m) No person shall knowingly dispose of fluorescent lights and thermostats that contain mercury in a sanitary landfill for the disposal of construction and demolition debris waste that is unlined or in any other landfill that is unlined."

SECTION 3. This act is effective when it becomes law, except that: (i) the recycling program required by G.S. 130A-310.60, as enacted by Section 1 of this act, shall be established and implemented by each State agency by December 1, 2009; (ii) G.S. 130A-310.61 as enacted by Section 1 of this act; and (iii) Section 2 of this act becomes effective December 1, 2009, and applies to offenses committed on or after that date.

SENATE BILL 836:
Recycle Products Containing Mercury

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	August 6, 2009
Introduced by:	Sen. Albertson	**Prepared by:**	Jennifer McGinnis
Analysis of:	PCS to First Edition		Committee Counsel

SUMMARY: House Bill 1287 would: (i) require all public agencies to implement a program for the collection and recycling of all spent fluorescent lights and thermostats that contain mercury generated in State offices; (ii) require removal of all fluorescent lights and thermostats that contain mercury from buildings prior to demolition; and (iii) prohibit the disposal of fluorescent lights and thermostats that contain mercury in unlined landfills.

CURRENT LAW: With regard to other recycling requirements applicable to State agencies, G.S.130A-309.14 requires all agencies to have a program to collect recyclable materials, specifically including aluminum, newspaper, sorted office paper, recyclable glass, and plastic bottles.

With regard to other items banned from disposal in landfills, other items include: used oil; yard trash; white goods; antifreeze; aluminum cans; whole scrap tires; lead-acid batteries; beverage containers that are required to be recycled by ABC permittees; motor vehicle oil filters (effective October 1, 2009); wooden pallets, except that wooden pallets may be disposed of in a landfill that is permitted to only accept construction and demolition debris (effective October 1, 2009); oyster shells; discarded computer quipment (effective January 1, 2011); and discarded televisions (effective January 1, 2011).[1]

BACKGROUND: Mercury is a toxic metal that can harm the brain, heart, kidneys, lungs, and immune system. It is found in certain consumer and industrial products, including fluorescent lights and thermostats. Improper disposal of such products can result in the release of mercury to the environment. Fragile products, such as fluorescent lights, may break during transportation and release mercury into the air. If a mercury-containing product ends up in a landfill, the mercury can leach into the surrounding soil or be released into the atmosphere.

BILL ANALYSIS: House Bill 1287 would:

- Require all public agencies (State agencies, including the General Assembly, the General Court of Justice, universities, community colleges, public schools, and political subdivisions) to: (i) implement a program by December 1, 2009 for the collection and recycling of all spent fluorescent lights and thermostats that contain mercury generated in State offices; and (ii) report on their compliance with this requirement to the Department of Environment and Natural Resources (DENR) and the Department of Administration (DOA) on or before February 1, 2010. DENR and DOA would then compile the information submitted from all agencies and jointly submit a report to the Environmental Review Commission on or before May 1, 2010.
- Require a contractor responsible for building demolition or an owner of property to be demolished to remove all fluorescent lights and thermostats that contain mercury from the building prior to demolition.

[1] These items are banned from disposal in ***all landfills***. The disposal ban proposed under the PCS covering fluorescent lights and thermostats containing mercury would only be applicable to sanitary landfill for the disposal of construction and demolition debris, and other unlined landfills.

- Prohibit the disposal of fluorescent lights and thermostats that contain mercury in a sanitary landfill for the disposal of construction and demolition debris, and other unlined landfills. A knowing violation of this provision would subject the violator to the imposition of administrative penalties, and would be punishable as a Class 1 misdemeanor[2,3].

EFFECTIVE DATE: The bill would be effective when it becomes law, except that the required recycling programs would have to be implemented by December 1, 2009, and the ban on disposal of fluorescent lights and thermostats containing mercury in unlined landfills would be effective December 1, 2009, and would apply to offenses committed on or after that date.

Jennifer McGinnis, counsel to House Environment and Natural Resources, substantially contributed to this summary.

S836-SMRI-86(e1) v1

[2] See GS 130A-22 (Administrative Penalties) and GS 130A-25(a) (Misdemeanor)/GS 14-3(a) (Punishment of Misdemeanors...).

[3] The range of punishment for a Class 1 misdemeanor, assuming no prior convictions, is 1-45 days community punishment.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Allen (Chair) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

SB 836 A BILL TO BE ENTITLED AN ACT TO AMEND OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES REPORTING REQUIREMENTS.

☒ With a favorable report as to the House committee substitute bill, which changes the title, unfavorable as to the original bill.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____: (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — August 6, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ben Haines	Law Offices of F. Bryan Brice, Jr.
Lisa Martin	NC Home Builders
DAVID BARNES	Poyner Spruill
Dan McLawhorn	City of Raleigh
John Maddux	City of Raleigh
C S Hollis	K&L Gates
Dianna Downey	NCUC Public Staff
Sam Watson	NCUC
George Everett	Duke Energy
Kathy Hawkins	Progress Energy
Preston Howard	MCIC

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — August 6, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Leslie Arnold	SOG-Daily Bulletin
Elizabeth Bise	DENR
James Simon	DENR
Francis M. Nevils JR	DENR
Steve Wall	DENR
John Huisman	NCDWQ DENR
Rich Gannon	" "
Charles Wakild	" "
Matt Matthews	" "
Elizabeth Oates	Environment North Carolina
Sharon Miller	CUCA

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — August 6, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jay Lentz	SAFAC
Tom Cors	TNC
Steve Will	DENR
John Shaw	Wake UP Wake Co.
Peter Raabe	American Rivers
Dan Crawford	CLNC
Patrick Buffkin	
Drew Ball	Sierra Club
Sean Quinn	Sierra Club
Grady McMillan	NCCN
Jessalee Landfried	NCCN

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — August 6, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ed Mussler	DENR - DWM
Lisa Riegel	NHTF
David Knight	DENR
Joy Hicks	NCDA&CS
Dan Conrad	NCCN

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — August 6, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mary Thompson	Weyerhaeuser
Jay Stem	NCAA
Rick Zechini	NC Assoc of Realtors
Colleen Kochanek	Kochanek Law Group
Kelli Kukura	NCLM

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HOUSE PAGES

ENVIRONMENTAL AND NATURAL
NAME OF COMMITTEE RESOURCES DATE 8-6-09

1. Name: Chase Creech
   County: Catawba
   Sponsor: Jane Whilden
2. Name: Andy Wilson
   County: Mecklenburg
   Sponsor: Ruth Samuelson
3. Name: Zaki Haidary
   County: Wake
   Sponsor: Rep. Lucy Allen
4. Name: ~~Ally Carlos-Barr~~ Allyn Carlos-Barr
   County: ~~Cumberland~~ Cumberland
   Sponsor: ~~Marvin Lucas~~ Marvin Lucas
5. Name:
   County:
   Sponsor:

SGT-AT-ARM

1. Name: CARLTON ADAMS, MARTHA GADISON
2. Name: JAMES WORTH, JUDY TURNER
3. Name: DAVID SHEARON
4. Name: FRANK PREVO

NORTH CAROLINA GENERAL ASSEMBLY

ENVIRONMENT AND NATURAL RESOURCES COMMITTEE

2009-2010 SESSION

Short Session

Rep. Pricey Harrison, Co-chair
Rep. Cullie Tarleton, Co-chair
Rep. Alice Underhill, Co-chair

Shara Graham, Committee Clerk

HOUSE STANDING COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

2009-2010 SHORT SESSION

Rep. Pricey Harrison, Co-chair
Rep. Cullie Tarleton, Co-chair
Rep. Alice Underhill, Co-chair

Vice Chairs

Representative Mitch Gillespie
Representative Carolyn H. Justice

Committee Counsel:
Jeff Hudson
Jennifer McGinnis

Committee Analyst:
Jennifer Mundt
Tim Dodge

Research Committee Assistant:
Mariah Matheson

Committee Assistant:
Shara Graham

Permanent Directory

HOUSE COMMITTEE ON ENVIRONMENT & NATURAL RESOURCES

2010 Session

(Clerk - Shara Graham: 733-5860)

MEMBER	ASSISTANT	PHONE	OFFICE	SEAT
Rep. Mitch Gillespie, Vice-Chair	Cindy Hobbs	733-5862	1008	74
Rep. Pricey Harrison Co-Chair	Sue Osborne	733-5771	2119	82
Rep. Carolyn H. Justice, Vice-Chair	Vivian Sherrell	715-9664	306A3	16
Rep. Cullie Tarleton, Co-Chair	Susan Whitehead	733-7727	2221	69
Rep. Alice Underhill, Co-Chair	Judy Verose	733-5853	1206	33
Rep. Kelly Alexander	Marjorie Conner	733-5778	632	83
Rep. Curtis Blackwood	Ed Stiles	733-2406	1317	97
Rep. Elmer Floyd	Latasha McPhaul	733-5959	1311	90
Rep. Pryor Gibson	Susanna Davis	715-3007	419A	96
Rep. Phil Haire	Sara Jane Lennard	715-3005	639	47
Rep. Verla Insko	Gina Insko	733-7208	307B1	70
Rep. Richard Killian	Jan Copeland	733-5886	1010	88
Rep. Paul Leubke	Joyce Harris	733-7663	529	44
Rep. Grier Martin	Sylvia Hammons	733-5758	2123	18
Rep. John May	Shara Graham	733-5860	536	41
Rep. Danny McComas	Judy Lowe	733-5786	506	13
Rep. Pat McElraft	Nancy Fox	733-6275	603	113
Rep. Bill Owens	Linda A. Johnson	733-0010	635	9
Rep. Ruth Samuelson	Susan Phillips	715-3009	418B	102
Rep. Russell Tucker	Sally Gillis	715-3021	416B	48
Rep. Roger West	Linda C. Johnson	733-5859	1004	50
Rep. Larry Womble	Dorothy McLean	733-5777	534	56

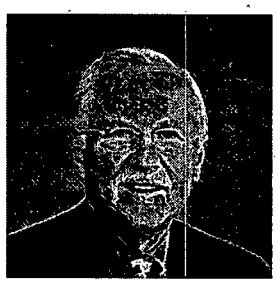
NORTH CAROLINA GENERAL ASSEMBLY

HOUSE ENVIRONMENTCOMMITTEE
2010 SHORT SESSION

Rep. Gillespie
Vice-Chair

Rep. Harrison
Vice-Chair

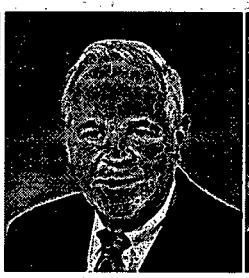
Rep. Justice
Vice-Chair



Rep. Tarleton
Vice-Chair

Rep. Underhill
Vice-Chair

Rep. K. Alexander



Rep. Blackwood

Rep. Floyd

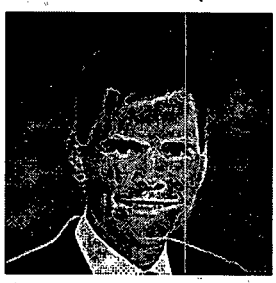
Rep. Gibson

Rep. Haire

Rep. Insko

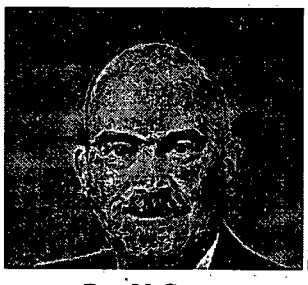
Rep. Killian

Rep. Leubke



Rep. Martin

Rep. May

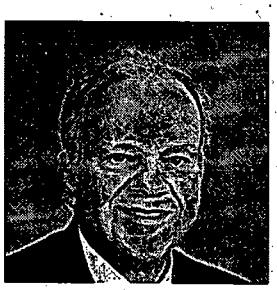


Rep. McComas

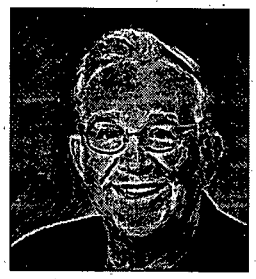
Rep. McElraft

Rep. Owens

Rep. Samuelson



Rep. Tucker



Rep. West

Rep. Womble

ATTENDANCE

ENVIRONMENT & NATURAL RESOURCES COMMITTEE

2009-2010 Session

DATES	5-25-10	6-1-10	6-8-10	6-10-10	6-15-10	6-22-10	6-24-10	6-29-10	7-1-10	7-7-10	7-8-10				
GILLESPIE, Mitch, Vice-Chair	X	X	X	X	X	X	X	X	X	X	X				
HARRISON, Pricey, Vice-Chair	X	X	X	X	X	X	X	E	X	A	X				
JUSTICE, Carolyn, Vice-Chair	X	X	E	X	A	X	A	A	X	A	X				
TARLETON, Cullie, Vice-Chair	X	X	X	X	X	X	X	X	X	X	X				
UNDERHILL, Alice, Vice-Chair	X	X	X	X	X	X	X	X	X	E	X				
ALEXANDER, Kelly	X	X	X	X	X	X	X	X	A	X	X				
BLACKWOOD, Curtis	A	X	A	A	X	X	X	X	X	X	X				
FLOYD, Elmer	X	X	X	X	X	X	X	X	X	X	X				
GIBSON, Pryor	X	X	X	X	X	X	A	X	X	X	X				
HAIRE, Phillip	X	X	X	X	X	A	X	X	X	X	X				
INSKO, Verla	X	X	X	X	X	X	A	X	A	X	X				
KILLIAN, Richard	X	A	A	X	X	A	A	A	A	X	X				
LUEBKE, Paul	X	X	X	X	X	X	A	X	X	A	X				
MARTIN, Grier	X	X	X	X	X	X	X	X	X	A	X				
MAY, John	X	X	X	X	X	X	X	X	X	X	X				
McCOMAS, Danny	X	A	X	X	A	X	X	A	X	A	A				
McELRAFT, Pat	X	X	X	X	X	X	X	X	X	X	X				
OWENS, Bill	A	A	A	A	A	A	A	A	A	A	X				
SAMUELSON, Ruth	X	X	X	X	X	A	X	X	X	X	X				
TUCKER, Russell	X	X	X	X	A	X	X	X	A	X	X				
WEST, Roger	X	X	X	A	X	X	A	X	X	A	X				
WOMBLE, Larry	A	X	X	X	X	X	X	X	X	X	X				

ATTENDANCE

ENVIRONMENT & NATURAL RESOURCES COMMITTEE

2009-2010 Session

DATES	5-25-10	6-1-10	6-8-10	6-10-10	6-15-10	6-22-10	6-24-10	6-29-10	7-1-10	7-7-10	7-8-10				
STAFF:															
Hudson, Jeff, Com. Counsel	X	X	X	X	X	X	X	X	X	X	X				
McGinnis, Jennifer, Com. Counsel	X	X	X	X	X	X	X	A	X	A	X				
Mundt, Jennifer, Com. Analyst	X	X	X	X	X	X	X	A	X	X	X				
Matheson, Mariah, Com. Assistant	X	X	X	X	X	X	X	X	X	A	X				
Tim Dodge, Com. Counsel	X	X	X	X	X	X	X	X	X	X	X				
Graham, Shara, Com. Assistant	X	X′	X	X	X	X	X	X	X	X	X				

2009-2010 Biennium Leg. Day: H-151/S-148

Bill	Introducer	Short Title		Latest Action	In Date	Out Date
H0003	Allred	DISAPPROVE JORDAN LAKE RULES.	*H	Ref to the Com on Environment and Natural Resources, if favorable, Judiciary I	02-12-09	
H0128=	Frye	AUTHORIZE GRANDFATHER MTN. AS STATE PARK.	H	Ref to the Com on Environment and Natural Resources, if favorable, Appropriations	02-12-09	
H0163=	West	LIMIT WELL WATER TESTING FOR VOC'S.	H	Ref to the Com on Environment and Natural Resources, if favorable, Health	02-16-09	
H0169	Harrison	MODIFY DRINKING WATER TEST FOR PRIVATE WELLS.	H	Ref to the Com on Environment and Natural Resources, if favorable, Health	02-17-09	
H0171	Holliman	CERTAIN ENV'AL VIOLATIONS/ENTRY/1ST PENALTY.	H	Ref to the Com on Environment and Natural Resources, if favorable, Judiciary III	02-18-09	
H0239=	Allen	RESTORE WATER QUALITY IN JORDAN RESERVOIR.	*HR	Ch. SL 2009-216	02-23-09	05-05-09
340=	Harrison	APPALACHIAN MOUNTAINS PRESERVATION ACT.	H	Ref to the Com on Environment and Natural Resources, if favorable, Public Utilities, if favorable, Commerce, Small Business, and Entrepreneurship	03-02-09	
H0350	Allred	DISAPPROVE JORDAN LAKE RULE: TECH AMENDMENT.	H	Ref to the Com on Environment and Natural Resources, if favorable, Judiciary I	03-02-09	
H0392	Allred	PLUMBERS ALLOWED TO INSTALL WELL PUMPS.	H	Ref to the Com on Environment and Natural Resources, if favorable, Water Resources and Infrastructure	03-04-09	
H0393	Allred	MODIFY RULE-MAKING PROCESS.	H	Ref to the Com on Environment and Natural	03-04-09	

'$' indicates the bill is an appropriation bill.
A bold line indicates the bill is an appropriation bill.
'*' indicates that the text of the original bill was changed by some action.
'=' indicates that the original bill is identical to another bill.

Bill	Introducer	Short Title		Latest Action	In Date	Out Date
				Resources, if favorable, Judiciary I, if favorable, State Government/State Personnel		
H0434	Setzer	ENHANCED NOTICE FOR ANIMAL WASTE PERMITTEES.	*H	Re-ref Com On Environment and Natural Resources	03-25-09	
H0461	Hill	EXTEND ANIMAL WASTE OPERATION INSPECTION PGM.	HR	Ch. SL 2009-84	03-09-09	03-24-09
H0569	Gibson	DWQ/BRIDGE CULVERT STANDARDS.	*HR	Ch. SL 2009-478	05-07-09	05-12-09
H0569	Gibson	DWQ/BRIDGE CULVERT STANDARDS.	*HR	Ch. SL 2009-478	07-13-09	08-06-09
$ H0605	**Harrison**	**COASTAL HAZARDS DISCLOSURE.**	**H**	**Ref to the Com on Environment and Natural Resources, if favorable, Commerce, Small Business, and Entrepreneurship, if favorable, Appropriations**	**03-16-09**	
H0607	Harrison	PHASE OUT LAGOON AND SPRAYFIELD SYSTEMS.	H	Ref to the Com on Environment and Natural Resources, if favorable, Finance	03-16-09	
...612=	McComas	DISAPPROVE COASTAL SETBACK RULE.	H	Ref to the Com on Environment and Natural Resources, if favorable, Judiciary I	03-17-09	
H0616=	Allen	OFFENSE FOR PORTABLE TOILETS/PUMPER TRUCKS.	*HR	Ch. SL 2009-37	03-17-09	03-25-09
H0617	Allen	DISABLED SPORTSMEN/ ATV EXCEPTION.	*H	Pres. To Gov. 7/8/ 2010	03-17-09	05-11-09
H0643	Tucker	STUDY RECLAIMED WATER.	*H	Re-ref Com On Rules, Calendar, and Operations of the House	04-14-09	07-23-09
H0685=	E. Warren	AMEND ON-SITE WASTEWATER CONTRACTOR LAWS.	H	Re-ref Com On Appropriations	03-19-09	04-14-09
H0709=	Allen	ADDRESS EROSION CONTROL ISSUES.	*HR	Ch. SL 2009-479	03-23-09	05-12-09
H0713=	Allen	EXPAND FILM CREDIT.	*HR	Ch. SL 2010-89	03-23-09	05-12-09
H0736=	Spear	GRANT FUNDS/RELOCATE CONDEMN WATER STRUCTURE.	H	Ref to the Com on Environment and Natural Resources, if favorable, Water	03-24-09	

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Bill	Introducer	Short Title		Latest Action	In Date	Out Date
				Resources and Infrastructure, if favorable, Appropriations		
H0759	Gibson	ABC RECYCLING STAY EXTENSION.	HR	Ch. SL 2009-105	04-07-09	04-14-09
H0760	Gibson	DISPOSAL OF PESTICIDE CONTAINERS.	*HR	Ch. SL 2009-499	03-25-09	04-07-09
H0761=	Gibson	DRY-CLEANING SOLVENT ACT AMENDS.	H	Ref to the Com on Environment and Natural Resources, if favorable, Judiciary III, if favorable, Finance	03-25-09	
$ H0782	**Rapp**	**SAFE ARTIFICIAL SLOPE CONSTRUCTION ACT.**	***H**	**Re-ref Com On Rules, Calendar, and Operations of the House**	**03-26-09**	**05-11-09**
H0789=	Hall	ENHANCE PROTECTION OF VICTIMS & WITNESSES.	*H	Ref To Com On Judiciary I	03-26-09	05-07-09
H0802	Allen	DELINEATE RIVER BASINS.	H	Re-ref Com On Environment and Natural Resources	04-21-09	
H0810=	Harrison	REDUCE PLASTIC BAG USE.	H	Ref to the Com on Environment and Natural Resources, if favorable, Commerce, Small Business, and Entrepreneurship	03-26-09	
H0823=	Harrison	LIMIT TOXIC FLAME RETARDANTS CONTAINING PBDES.	H	Re-ref to the Com on Health, if favorable, Commerce, Small Business, and Entrepreneurship, if favorable, Finance	03-30-09	04-13-09
H0835	McLawhorn	SANITARY DISTRICTS STUDY COMMISSION.	*H	Re-ref Com On Appropriations	03-30-09	04-08-09
H0924	Carney	MECKLENBURG COUNTY/ REIMBURSEMENT AGREEMENTS.	*HR	Ch. SL 2009-162	05-06-09	05-11-09
H0924	Carney	MECKLENBURG COUNTY/ REIMBURSEMENT AGREEMENTS.	*HR	Ch. SL 2009-162	06-16-09	06-18-09
H0972	Tarleton	CREATE UWHARRIE REGIONAL RESOURCES COMM'N.	*H	Pres. To Gov. 7/ 10/2010	07-08-10	07-08-10
H1066=	Hall	PER DIEM EROSION CONTROL PENALTIES.	H	Ref to the Com on Environment and Natural Resources, if favorable,	04-06-09	

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Bill	Introducer	Short Title		Latest Action	In Date	Out Date
				Judiciary I		
[redacted]099	Allen	CLARIFY EFFECTIVE DATE FOR SEPA EXEMPTION.	*H	Pres. To Gov. 7/10/2010	04-07-09	05-07-09
H1100	Allen	STORMWATER CONTROLS FOR COMPOST.	*HR	Ch. SL 2009-322	04-21-09	05-13-09
H1175	Hill	UPDATE NPDES PERMITTING FOR CAFOS.	HR	Ch. SL 2009-92	04-29-09	05-11-09
H1196	England	STATE NAT. & HIST. PRES. ADDNS. & DEL.	*HR	Ch. SL 2009-503	04-08-09	05-05-09
H1196	England	STATE NAT. & HIST. PRES. ADDNS. & DEL.	*HR	Ch. SL 2009-503	07-21-09	08-03-09
H1205	Harrison	ESTABLISH NC COMMISSION ON CLIMATE CHANGE.	H	Ref to the Com on Environment and Natural Resources, if favorable, Rules, Calendar, and Operations of the House	04-08-09	
H1207	Cole	CLEAN CARS/VEHICLE RETIREMENT PROGRAM.	H	Ref to the Com on Environment and Natural Resources, if favorable, Commerce, Small Business, and Entrepreneurship, if favorable, Finance	04-08-09	
[redacted]17	Allred	REAL ESTATE DISCLOSURE/ ENVIRONMENTAL CONCERNS.	H	Ref to the Com on Environment and Natural Resources, if favorable, Commerce, Small Business, and Entrepreneurship	04-08-09	
H1232=	Gibson	STUDY OFF-SHORE DRILLING REVENUES.	H	Ref to the Com on Environment and Natural Resources, if favorable, Rules, Calendar, and Operations of the House	04-09-09	
H1236	Gibson	PROMOTE WATER USE EFFICIENCY.	*HR	Ch. SL 2009-480	05-06-09	05-12-09
H1287	Harrison	RECYCLE PRODUCTS CONTAINING MERCURY.	*H	Re-ref Com On Appropriations/ Base Budget	05-04-09	05-11-09
H1290	Harrison	NC CLEAN CARS PROGRAM.	H	Ref to the Com on Environment and Natural Resources, if favorable, State	04-09-09	

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2009-2010 Biennium

Leg. Day: H-151/S-148

Bill	Introducer	Short Title		Latest Action	In Date	Out Date
				Government/State Personnel		
133	Stiller	REVISE NC RIVER BASINS.	*H	Re-ref Com On Environment and Natural Resources	04-29-09	
H1335	Gibson	MORATORIUM ON EMC RULE MAKING.	*H	Ref To Com On Rules, Calendar, and Operations of the House	04-09-09	05-12-09
H1354	Harrison	INCREASE PUBLIC SAFETY FOR COAL ASH DISPOSAL.	H	Ref to the Com on Environment and Natural Resources, if favorable, Public Utilities, if favorable, Finance	04-28-09	
H1378	McComas	CLEAN MARINAS/PUMPOUT STATIONS.	*HR	Ch. SL 2009-345	05-06-09	05-11-09
H1388	Fisher	BROWNFIELDS PROPERTY NOTIFICATIONS.	*HR	Ch. SL 2009-181	04-13-09	05-11-09
H1399	Braxton	CAPACITY USE AREAS ENFORCEMENT.	*HR	Ch. SL 2009-134	04-29-09	05-12-09
H1426=	Gibson	AMEND ELECTRONICS RECYCLING LAW.	H	Ref to the Com on Environment and Natural Resources, if favorable, Commerce, Small Business, and Entrepreneurship	04-13-09	
127	Gibson	AMEND COMPUTER RECYCLING PROVISIONS.	H	Ref to the Com on Environment and Natural Resources, if favorable, Commerce, Small Business, and Entrepreneurship, if favorable, Finance	04-13-09	
H1441	Harrison	GREENHOUSE GAS EMISSIONS REDUCTION ACT.	H	Ref to the Com on Environment and Natural Resources, if favorable, Public Utilities	04-13-09	
H1462=	Hughes	CEMENT PLANT MORATORIUM AND STUDY.	H	Ref to the Com on Environment and Natural Resources, if favorable, Commerce, Small Business, and Entrepreneurship	04-13-09	
H1490=	Harrell	LAND DEVELOPMENT PERMIT CHANGES.	*HR	Ch. SL 2009-572	04-13-09	05-06-09

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Bill	Introducer	Short Title		Latest Action	In Date	Out Date
H1559	Allen	RADIATION PROTECTION PROGRAM FEE AMENDMENTS.	H	Ref to the Com on Environment and Natural Resources, if favorable, Finance	04-29-09	
H1575	Gibson	ACCELERATE REMEDIATION OF MANUFACTURING SITES.	H	Ref to the Com on Environment and Natural Resources, if favorable, Commerce, Small Business, and Entrepreneurship, if favorable, Finance	05-05-09	
H1634	Harrison	CLARIFY PROPERTY TAX FOR CONSERVATION LAND.	H	Ref to the Com on Environment and Natural Resources, if favorable, Finance	05-07-09	
$ H1640	**Fisher**	**STUDY/ECONOMIC IMPACT OF ARTS/CULTURE IN WNC.**	**H**	**Re-ref Com On Rules, Calendar, and Operations of the House**	**05-07-09**	**06-25-09**
H1677=	Guice	DISAPPROVE BOYLSTON CREEK RECLASSIFICATION.	H	Ref to the Com on Environment and Natural Resources, if favorable, Judiciary I	05-13-10	
701= H1701=	**Weiss**	**NC SUSTAINABLE COMMUNITIES TASK FORCE.**	***H**	**Re-ref Com On Appropriations**	**05-13-10**	**05-26-10**
H1708	McComas	CLEAN MARINAS AMENDMENTS.	*H	Engrossed	05-17-10	05-25-10
H1710=	Wainwright	FISHERY MANAGEMENT PLAN SUPPLEMENTS.	*HR	Ch. SL 2010-15	05-26-10	06-08-10
H1720=	Brubaker	EXTEND ZOO FUNDS & ORG. STUDY COMMITTEE.	*H	Re-ref Com On Finance	05-17-10	05-26-10
H1743=	Crawford	IMPROVE RIVER BASIN MODELING.	*H	Pres. To Gov. 7/8/ 2010	05-26-10	06-09-10
H1743=	Crawford	IMPROVE RIVER BASIN MODELING.	*H	Pres. To Gov. 7/8/ 2010	07-05-10	07-07-10
H1744=	Crawford	MODIFY WATER FUNDING PRIORITIES	*H	Pres. To Gov. 7/8/ 2010	05-26-10	06-08-10
H1746=	Crawford	WATER INFRASTRUCTURE INFORMATION NEEDS.	*H	Pres. To Gov. 7/8/ 2010	06-09-10	06-16-10
H1747=	Crawford	WATER SUPPLY SYSTEM CAPACITY PLANNING.	*H	Pres. To Gov. 7/2/ 2010	06-09-10	06-16-10
H1749=	Crawford	WATER INFRASTRUCTURE NEEDS/CLOSE INFO GAPS.	*H	Re-ref Com On Environment and Natural Resources	06-09-10	
H1761=	Gibson	AMEND ELECTRONICS RECYCLING REQUIREMENTS.	H	Ref to the Com on Environment and Natural Resources, if	05-18-10	

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Bill	Introducer	Short Title		Latest Action	In Date	Out Date
				favorable, Finance		
H1765=	Gibson	AMEND WQ/IBT LAWS	*H	Pres. To Gov. 7/10/2010	05-18-10	06-09-10
H1765=	Gibson	AMEND WQ/IBT LAWS	*H	Pres. To Gov. 7/10/2010	07-07-10	07-08-10
H1766=	Gibson	AMEND ENVIRONMENTAL LAWS 2010.	*H	Pres. To Gov. 7/10/2010	05-18-10	07-01-10
H1801=	Harrison	ENVIRONMENTAL TECHNICAL CORRECTIONS 2010.	*H	Ref To Com On Rules and Operations of the Senate	05-19-10	06-01-10
H1802=	Harrison	ENR REPORTS CONSOL./ TECH. CORRECTS 2010.	*H	Pres. To Gov. 7/9/2010	05-19-10	06-01-10
H1802=	Harrison	ENR REPORTS CONSOL./ TECH. CORRECTS 2010.	*H	Pres. To Gov. 7/9/2010	07-06-10	07-07-10
H1803=	Harrison	REVIEW NC PROGRAMS FOR CLIMATE CHANGE IMPACTS	*H	Re-ref Com On State Government/ State Personnel	05-19-10	05-26-10
H1804=	Harrison	ENERGY POLICY COUNCIL GREEN ENERGY STUDY.	*H	Ref To Com On Rules and Operations of the Senate	06-10-10	06-22-10
$ H1805=	**Harrison**	**FUNDS TO ASSESS/ MONITOR NC CLIMATE CHANGE.**	**H**	**Ref to the Com on Environment and Natural Resources, if favorable, Appropriations**	**05-19-10**	
H1806=	Harrison	ESTABLISH NC COMMISSION ON CLIMATE CHANGE.	H	Ref to the Com on Environment and Natural Resources, if favorable, Rules, Calendar, and Operations of the House	05-19-10	
$ H1808=	**Harrison**	**NC CLIMATE CHANGE ADAPTATION STRATEGY.**	**H**	**Ref to the Com on Environment and Natural Resources, if favorable, Appropriations**	**05-19-10**	
H1809=	Harrison	STUDY CARBON OFFSETS AND CARBON SEQUESTRATION.	H	Ref to the Com on Environment and Natural Resources, if favorable, State Government/State Personnel	05-19-10	
$ H1870	**Goforth**	**SAFE ARTIFICIAL SLOPE CONSTRUCTION ACT.**	***H**	**Re-ref Com On Finance**	**05-20-10**	**06-23-10**
H2012=	Harrison	REGULATE CERTAIN COAL-ASH STRUCTURAL FILL.	H	Ref to the Com on Environment and Natural Resources, if favorable, Public	05-26-10	

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Bill	Introducer	Short Title		Latest Action	In Date	Out Date
				Utilities, if favorable, Finance		
)14=	**Harrison**	**REMOVE DAMAGE CAP/ REVIEW OFFSHORE OIL SPILLS.**	**H**	**Ref to the Com on Environment and Natural Resources, if favorable, Judiciary I, if favorable, Appropriations**	**05-26-10**	
H2015=	Harrison	STUDY IMPACT OF TOXINS ON HEALTH.	*H	Re-ref Com On Rules, Calendar, and Operations of the House	05-26-10	06-24-10
$ H2039=	**Haire**	**CHANGE NAME TO WNC PUBLIC LANDS COUNCIL.**	**H**	**Ref to the Com on Environment and Natural Resources, if favorable, Appropriations**	**05-26-10**	
S0044	Eleanor Kinnaird	APPEALS OF QUASI-JUDICIAL LAND-USE DECISIONS.	*HR	Ch. SL 2009-421	05-12-09	06-25-09
S0089=	Joe Sam Queen	AUTHORIZE GRANDFATHER MTN. AS STATE PARK.	*HR	Ch. SL 2009-12	03-11-09	03-19-09
S0141=	John Snow	LIMIT WELL WATER TESTING FOR VOC'S.	*HR	Ch. SL 2009-124	02-25-09	05-25-09
S0307	Ed Jones	REGULATE OWNERSHIP & USE OF CERTAIN REPTILES.	*HR	Ch. SL 2009-344	06-03-09	07-06-09
)86=	Floyd B. McKissi	FILE LIS PENDENS FOR CERTAIN EROSION ACTIONS.	HR	Ch. SL 2009-269	05-19-09	06-09-09
S0600=	Daniel G. Clodfe	CONDEMNATION OF CONSERVATION EASEMENTS.	*HR	Ch. SL 2009-439	06-04-09	07-06-09
S0636=	Harry Brown	REIMBURSE BEACH NUISANCE ABATEMENT COST.	*H	Re-ref Com On Appropriations	05-04-09	05-25-09
S0700=	Tony Rand	DRY-CLEANING SOLVENT ACT AMENDS.	*HR	Ch. SL 2009-483	06-17-09	06-25-09
S0755	Daniel G. Clodfe	PROMOTE MITIGATION BANKS.	*HR	Ch. SL 2009-337	05-12-09	06-18-09
S0778	R. C. Soles, Jr.	APPLICATION OF SEPA TO INCENTIVES.	*H	Pres. To Gov. 7/ 10/2010	05-11-09	07-08-10
S0831=	Daniel G. Clodfe	EXTEND CERTAIN DEVELOPMENT APPROVALS.	*HR	Ch. SL 2009-406	05-14-09	05-25-09
S0832	Julia Boseman	CRC MAY PERMIT TERMINAL GROIN.	*H	Ref to the Com on Environment and Natural Resources, if favorable, State Government/State Personnel, if favorable, Rules, Calendar, and	05-05-09	

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Bill	Introducer	Short Title		Latest Action	In Date	Out Date
				Operations of the House		
135	Charles W. Alber	EXTEND CLIMATE CHANGE COMMISSION.	*HR	Ch. SL 2009-306	04-09-09	05-26-09
S0836=	Charles W. Alber	OIL SPILL LIABILITY, RESPONSE, & PREPAREDNESS	*H	Pres. To Gov. 7/9/ 2010	05-14-09	08-06-09
S0836=	Charles W. Alber	OIL SPILL LIABILITY, RESPONSE, & PREPAREDNESS	*H	Pres. To Gov. 7/9/ 2010	08-06-09	06-10-10
S0838=	Charles W. Alber	AMENDMENTS TO ENVIRONMENTAL LAWS 2009.	*HR	Ch. SL 2009-484	05-14-09	08-05-09
S0886=	Don Vaughan	CLEANFIELDS ACT OF 2010.	*H	Pres. To Gov. 7/9/ 2010	06-10-10	06-29-10
S0887=	Don Vaughan	AMEND ELECTRONICS RECYCLING LAW.	*HR	Ch. SL 2010-67	05-18-09	06-16-10
S0968	Joe Sam Queen	MOUNTAIN RESOURCES PLANNING.	*HR	Ch. SL 2009-485	08-05-09	08-06-09
S0990	Don Davis	INCREASE PENALTY/ TIMBER THEFT.	*HR	Ch. SL 2009-508	05-19-09	06-02-09
S0998	Clark Jenkins	MORATORIUM ON CERTAIN SANDBAG REMOVALS.	*H	Ref to the Com on Environment and Natural Resources, if favorable, Rules, Calendar, and Operations of the House	05-07-09	
S1004=	David W. Hoyle	AMEND CERTAIN ELECTRICITY GENERATION LAWS.	*HR	Ch. SL 2009-390	07-13-09	07-20-09
S1018=	Josh Stein	BAN CERTAIN SINGLE-USE BAGS.	*HR	Ch. SL 2009-163	05-18-09	06-09-09
S1020	Josh Stein	IMPROVE UPPER NEUSE BASIN WATER QUALITY.	*HR	Ch. SL 2009-486	05-26-09	08-06-09
S1259=	John Snow	DELAY BOYLSTON CREEK RECLASS./PUB. MEETINGS.	*H	Pres. To Gov. 7/9/ 2010	06-21-10	06-29-10
S1337=	Don Davis	UST OPERATOR TRAINING PROGRAM.	*H	Pres. To Gov. 7/8/ 2010	06-10-10	06-24-10

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MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

MAY 25, 2010

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Tuesday, May 25, 2010, in room 643 of the Legislative Office Building. Representative Cullie Tarleton presided. Members present were: Representatives Gillespie, Harrison, Justice, and Underhill, Vice-chairs; Representatives Floyd, Gibson, Insko, Killian, Luebke, Martin, May, McComas, McElraft, Samuelson, Tucker, and West.

Representative Tarleton called the meeting to order at 12:00 noon. He noted Representative Allen's appointment to the North Carolina Utilities Commission and subsequent resignation from the House of Representatives and from her duties as Chair of the committee. He then acknowledged Speaker Hackney's announcement that three of the Vice-chairs (Representatives Harrison, Underhill, and Tarleton) would assume the duties of chairing the meetings through the 2010 short session. Finally, Representative Tarleton introduced and welcomed a new member of the committee, Representative John May, who had been named as Representative Allen's successor in House District 49.

Representative Tarleton then introduced the pages for the day, the sergeant-at-arms staff assigned to the meeting (list attached), and the staff members who would be working with the committee.

The first item on the agenda was House Bill 1701 - A BILL TO BE ENTITLED AN ACT TO ESTABLISH THE NORTH CAROLINA SUSTAINABLE COMMUNITIES TASK FORCE, AN INTERAGENCY COLLABORATION BETWEEN THE DEPARTMENTS OF ADMINISTRATION, COMMERCE, ENVIRONMENT AND NATURAL RESOURCES, TRANSPORTATION, HEALTH AND HUMAN SERVICES, AND THE NORTH CAROLINA HOUSING FINANCE AGENCY FOCUSED ON DEVELOPING AND SUSTAINING HEALTHY, SAFE, AND WALKABLE COMMUNITIES ACCESSIBLE TO ALL NORTH CAROLINIANS, AS RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON URBAN GROWTH AND INFRASTRUCTURE ISSUES. Upon a motion by Representative Harrison, a proposed committee substitute was placed before the committee. Representative Weiss was recognized to present the bill, at which time she recognized the bill's other primary sponsors: Representatives Ross, Rapp, and Alexander. She called upon Jennifer Mundt, Committee Analyst, to provide additional details as they appeared in the PCS. Numerous questions and comments were presented by committee members. Representative Gillespie was recognized to present an amendment (copy attached) to assure that the latest census data would be used by the task force established in the bill. This amendment passed unanimously with the support of the bill's sponsor, Representative Weiss. Once all questions and concerns were addressed, Representative Harrison was recognized for a motion for a favorable report as to the committee substitute bill, which would include the Gillespie amendment, changing the title, unfavorable to the original bill, and recommendation that the committee substitute bill be referred to the Committee on Appropriations. This motion passed by a vote of seven in favor, five opposed.

Next on the agenda was HB 1708 - A BILL TO BE ENTITLED AN ACT TO DELAY THE EFFECTIVE DATE OF THE CLEAN COASTAL WATER AND VESSEL ACT FROM JULY 1, 2010, TO DECEMBER 1, 2010, AND TO LIMIT THE ACT'S APPLICATION TO ONLY

THOSE AREAS THAT ARE DESIGNATED AS NO DISCHARGE ZONES BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION. Representative McComas was recognized to present the bill to the committee. He indicated that it was merely a technical correction bill and asked for support from the committee. With no questions or comments from the members, Representative Luebke made a motion for a favorable report and recommendation that the bill be referred to the Committee on Marine Resources and Aquaculture. This motion received unanimous approval.

Representatives Brubaker and E. Warren were then recognized to present HB 1720 - A BILL TO BE ENTITLED AN ACT TO EXTEND THE NORTH CAROLINA ZOOLOGICAL PARK FUNDING AND ORGANIZATION STUDY COMMITTEE, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION. Representative Underhill made a motion that a proposed committee substitute for the bill be placed before the committee for consideration. This motion passed without objection. Representative Justice made a motion for a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be referred to the Committee on Rules, Calendar, and Operations of the House. This motion was unanimously approved

Next on the agenda was HB 1803 - A BILL TO BE ENTITLED AN ACT TO DIRECT STATE AGENCIES TO REVIEW THEIR ENVIRONMENTAL PROGRAMS AND RECOMMEND WHETHER THE ENVIRONMENTAL PROGRAMS SHOULD INCLUDE CONSIDERATION OF GLOBAL CLIMATE CHANGE, AS RECOMMENDED BY THE LEGISLATIVE COMMISSION ON GLOBAL CLIMATE CHANGE. Representative Harrison stepped forth to explain the bill. Representative Martin's motion that a proposed committee substitute be placed before the committee passed without objection. Representative Harrison indicated that the legislation came about as a recommendation from the Global Climate Change Commission. She called upon Jennifer Mundt, Committee Analyst, to further explain the PCS. Several questions from members were addressed. Representative Gillespie presented an amendment (copy attached) that would require future changes to have legislative approval prior to implementation. This amendment passed unanimously. Representative Underhill moved that HB 1803 be given a favorable report as to the committee substitute bill, to include the amendment, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be referred to the Committee on State Government/State Personnel. This motion passed unanimously.

Representative Harrison presented her HB 1805 – AN ACT TO APPROPRIATE FUNDS (1) TO ESTABLISH THE COASTAL ADAPTATION RESOURCES MAPPING AND MONITORING PROGRAM AND (2) TO EXPAND THE NORTH CAROLINA ENVIRONMENT AND CLIMATE OBSERVING NETWORK; IN ORDER TO PROVIDE FOR MONITORING OF THE ENVIRONMENTAL IMPACTS OF GLOBAL CLIMATE CHANGE IN NORTH CAROLINA AND FOR IMPROVING WEATHER AND CLIMATE DATA COLLECTION IN NORTH CAROLINA, AS RECOMMENDED BY THE LEGISLATIVE COMMISSION ON GLOBAL CLIMATE CHANGE. Representative Alexander moved that a proposed committee substitute be placed before the committee for consideration. Because of time constraints, Representative Gillespie requested that the bill be carried over so that complete discussion might ensue. The bill's sponsor and the Chair agreed and the bill was tabled until further notice.

With no further business to come before the committee, the meeting was adjourned at 12:50 p.m.

Respectfully submitted,

Representative Cullie Tarleton, Chair

Shara Graham, Committee Assistant

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE MEETING

May 25, 2010
12:00 NOON
Room 643 LOB

Representative Cullie Tarleton, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

HB 1701 - NC Sustainable Communities Task Force
Primary Sponsors: Reps. Weiss, Ross, K. Alexander, Rapp

HB 1708 - Clean Marinas Amendments
Primary Sponsors: Reps. McComas, Justice, Underhill, Harrison

HB 1720 - Extend Zoo Funds & Org. Study Committee
Primary Sponsors: Reps. Brubaker, Warren, Harrison

HB 1803 - Study - NC Programs That Impact Environment
Primary Sponsors: Harrison, Underhill, Wilkins

HB 1805 - Funds to Assess/Monitor NC Climate Change
Primary Sponsors: Harrison, Underhill, Wilkins

ADJOURNMENT

HOUSE BILL 1701*

Short Title:	NC Sustainable Communities Task Force.	(Public)
Sponsors:	Representatives Weiss, Ross, K. Alexander, Rapp (Primary Sponsors); M. Alexander, Barnhart, Bordsen, Bryant, Carney, Cotham, Earle, Farmer-Butterfield, Fisher, Gill, Glazier, Hall, Harrison, Heagarty, Holliman, Hughes, Justice, Lucas, Luebke, McComas, McGee, McLawhorn, Tarleton, and Whilden.	
Referred to:	Environment and Natural Resources, if favorable, Appropriations.	

May 13, 2010

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE NORTH CAROLINA SUSTAINABLE COMMUNITIES TASK FORCE, AN INTERAGENCY COLLABORATION BETWEEN THE DEPARTMENTS OF ADMINISTRATION, COMMERCE, ENVIRONMENT AND NATURAL RESOURCES, TRANSPORTATION, HEALTH AND HUMAN SERVICES, AND THE NORTH CAROLINA HOUSING FINANCE AGENCY FOCUSED ON DEVELOPING AND SUSTAINING HEALTHY, SAFE, AND WALKABLE COMMUNITIES ACCESSIBLE TO ALL NORTH CAROLINIANS, AS RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON URBAN GROWTH AND INFRASTRUCTURE ISSUES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 10 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 22. North Carolina Sustainable Communities Task Force.

"**§ 143B-472.130. North Carolina Sustainable Communities Task Force – findings.**

(a) The General Assembly finds that the rapid growth of the urban and suburban areas of North Carolina and the economic challenges facing many of the State's urban cores, rural areas, and smaller communities create a significant need for the strategic use of resources to plan and accommodate healthy and equitable development without compromising natural systems and the needs of future generations of North Carolinians.

(b) The General Assembly finds that the following principles describe sustainable development for North Carolina's communities:

(1) Better transportation choices. – Offering safe, reliable, and economical motorized and nonmotorized transportation options to decrease household transportation costs, reduce dependence on foreign oil, improve air quality, reduce greenhouse gas emissions, and promote public health.

(2) Equitable, affordable housing. – Encouraging the provision to North Carolina citizens of all ages, incomes, races, and ethnicities expanded location-, water- and energy-efficient housing choices that increase mobility, decrease the impact on existing water and energy infrastructure, and lower the combined cost of housing and transportation.

(3) Enhanced economic competitiveness. – Expanding business access to markets and improving North Carolina's economic competitiveness through

reliable and timely access to employment centers, educational opportunities, services, and other basic needs by workers.

(4) Support of existing communities. – Targeting public funds toward existing communities that are using strategies such as transit-oriented, mixed-use development and land recycling to increase community revitalization, enhance the efficiency and cost effectiveness of public works investments, and protect rural landscapes.

(5) Coordination and leverage of State policies and investment. – Aligning State and local government policies and funding to remove barriers to collaboration, leverage funding, and increase the accountability and effectiveness of government in planning for future growth.

(6) Recognize and support communities and neighborhoods. – Preserving and enhancing the unique characteristics of rural, urban, and suburban communities by investing in healthy, safe, and walkable neighborhoods.

"**§ 143B-472.131. North Carolina Sustainable Communities Task Force – creation; purpose; duties.**

There is created within the Department of Commerce the North Carolina Sustainable Communities Task Force to lead and support the State's sustainable communities initiatives. The duties of the Task Force shall be as follows:

(1) To apply for and receive, on behalf of the State, funding from federal, public or private initiatives, grant programs, or donors that will foster sustainable development in North Carolina.

(2) To promote regional partnerships and to assist local governments and regional or interlocal organizations in North Carolina in seeking and managing funding from federal, public or private initiatives, grant programs, or donors related to the planning, development, or redevelopment of the State's communities in a sustainable manner.

(3) To identify federal funding opportunities related to sustainable development.

(4) To provide technical assistance to eligible State agencies, local governments, nonprofits or regional collaborations and partnerships in applying for federal and other funding opportunities. This technical assistance shall include the development of scenario planning tools, progress measurement metrics, and public participation strategies for use by all applicants.

(5) To recommend policies for the support, promotion, and encouragement of sustainable communities to the Secretaries of the Departments of Commerce, Environment and Natural Resources, and Transportation, the General Assembly, and the Governor.

(6) To recommend annually to the Governor appropriations for sustainable development programs.

(7) To develop a common local government sustainable practices scoring system incorporating the principles set forth in G.S. 143B-472.130(b).

(8) To pursue opportunities to combine the efforts of State agencies related to development and infrastructure; to study how existing regional and interlocal organizations could improve their organization and reduce unnecessary overlap and duplication of services; and to better integrate State efforts and investments with regional and local efforts. The Task Force shall include in its recommendations under subdivisions (5) and (6) of this section any recommendations for legislation necessary to implement any potential improvements identified under this subdivision.

"**§ 143B-472.132. North Carolina Sustainable Communities Task Force – membership; staffing; sunset.**

(a) Membership and Advice. – The Task Force shall consist of 11 members who reflect the diversity of the State. The Secretaries of Commerce, Environment and Natural Resources, and Transportation and the Director of the North Carolina Housing Finance Agency shall each designate a representative to the Task Force from their agencies. The Secretary of Administration shall designate a representative from that Department who is familiar with the management and development of State-owned lands and buildings. The Secretary of Health and Human Services shall designate a representative from the Division of Public Health of the Department of Health and Human Services who is familiar with the impact of the built environment on human health. The Governor shall appoint the remaining five members under a specified subdivision of this subsection as follows:

(1) One member who is a representative of a nonprofit organization involved in the planning, advocacy, or creation of sustainable development.
(2) One member who is a representative of a county government.
(3) One member who is a representative of city government.
(4) One member who is a representative of a Council of Government or other regional collaborative organization.
(5) One member with professional training in planning who is a representative of the North Carolina Chapter of the American Planning Association.

The Secretaries of Administration, Commerce, Environment and Natural Resources, Health and Human Services and Transportation, or their designees, shall advise the Task Force on sustainable development activities within the responsibility of their respective departments and shall cooperate with the Task Force in jointly seeking funds from federal, public, or private initiatives, grant programs, or donors.

(b) Terms, Vacancies. – The members of the Task Force appointed by the Governor shall have a term of office of four years and shall serve until their successors are appointed and qualified. An appointment to fill a vacancy shall be for the unexpired balance of the term. The remaining members of the Task Force shall serve at the pleasure of the appointing authority.

(c) Staff. – The Departments of Administration, Commerce, Environment and Natural Resources, Health and Human Services and Transportation shall provide clerical and professional staff support to the Task Force.

(d) Compensation. – The public members of the Task Force shall receive per diem and necessary travel and subsistence expenses payable to members of State boards and agencies as set forth by G.S. 138-5 and G.S. 138-6, respectively.

(e) Sunset. – This Part expires June 30, 2021.

"**§ 143B-472.133. North Carolina Sustainable Communities Task Force – reports.**

(a) Beginning in 2011, the Task Force shall report to the Governor, the House and Senate Commerce Committees, and the Joint Legislative Commission on Governmental Operations no later than October 1 each year. The report shall include the following elements:

(1) Policy recommendations and suggested legislation.
(2) Funding applied for and received in the prior fiscal year.
(3) Population, employment, building permit, and related socioeconomic data for each metro region of the State, including 25-year projections of population and employment and any other demographic trends the Task Force finds relevant, with commentary on any changing trends in the data that might affect planning for sustainable development and infrastructure. Where possible, the Task Force shall use data already collected by the State Demographer, the United States Census Bureau, and any other state or federal agency.
(4) An inventory of State policies and programs that influence positively or negatively the ability to develop sustainable communities.

(5) An overview of all State funding initiatives (including State-allocated federal funding initiatives) used to support housing, infrastructure, water quality, and land preservation, including, at a minimum, the following:

a. The Clean Water Management Trust Fund.
b. The Parks and Recreation Trust Fund.
c. The Agriculture Development and Farmland Preservation Trust Fund.
d. The Natural Heritage Trust Fund.
e. The Highway Fund and the Highway Trust Fund.
f. The Congestion Relief and Intermodal Transportation 21st Century Fund.
g. The Ecosystem Enhancement Program.
h. The North Carolina Main Street Program and the Main Street Solutions Fund.
i. The Housing Trust Fund and the low-income housing tax credit funds administered by the Housing Finance Agency.
j. Funds from the Public School Building Capital Fund used by counties for the purchase of land for public school buildings.
k. The tax credits for renewable energy property, historic rehabilitation, and mill rehabilitation set forth in Chapter 105 of the General Statutes.

The overview should include the current funding level, changes in funding over the previous fiscal year, and how the funding initiative has contributed to sustainable development, or, in the case of a tax credit, the number and geographical distribution of taxpayers taking the credit, the amount of credits claimed, and how the credit has contributed to sustainable development.

(b) For purposes of this section "metro region of the State" includes the following Statistical Areas defined by the United States Census Bureau:

(1) The Research Triangle region (made up of the Durham-Chapel Hill and the Raleigh-Cary Metropolitan Statistical Areas).
(2) The North Carolina portion of the Charlotte-Gastonia-Concord Metropolitan Statistical Area.
(3) The Greensboro-Winston-Salem-High Point Combined Statistical Area.
(4) The Asheville Metropolitan Statistical Area.
(5) The Hickory-Lenoir-Morganton Metropolitan Statistical Area.
(6) The Fayetteville Metropolitan Statistical Area.
(7) The Wilmington Metropolitan Statistical Area.
(8) The Greenville Metropolitan Statistical Area.
(9) The Jacksonville Metropolitan Statistical Area.
(10) The Rocky Mount Metropolitan Statistical Area.
(11) The Goldsboro Metropolitan Statistical Area.
(12) Any other Metropolitan Statistical Area that includes counties of the State and that has a population of 100,000 or more within the State."

SECTION 2.(a) Supplemental Funding for Regional Sustainable Development Partnerships. – The Departments of Commerce, Transportation, and Environment and Natural Resources shall ensure that any programs they administer providing pass-through funding or grants for regional bodies, counties, or municipalities will, to the extent possible under rules or guidelines imposed by the source of the funding, provide supplemental funds to regional bodies and to cities and counties within regions that comply with the following requirements:

(1) The regional body, city, or county is a part of a regional sustainable development partnership covering any of the metro regions identified in G.S. 143B-472.133(b), as enacted by Section 1 of this act. This partnership must include any Metropolitan Planning Organizations, Regional Planning Organizations, and regional transit agencies in existence in the region, along with representatives of the Departments of Commerce, Transportation, and Environment and Natural Resources.

(2) The partnership has submitted a workplan to the North Carolina Sustainable Communities Task Force showing the activities to be funded and the public information process through which activities are selected and prioritized.

(3) All members of the partnership have adopted a jointly developed memorandum of agreement describing how coordinated planning activities will be undertaken.

(4) The partnership provides matching funds for the supplemental funds provided by the Departments of Commerce, Transportation, and Environment and Natural Resources.

In awarding any supplemental funding, the Departments of Commerce, Transportation, and Environment and Natural Resources shall utilize the common local government sustainable practices scoring system set forth in G.S. 143B-472.131, as enacted by Section 1 of this act.

SECTION 2.(b) Reports. – The Departments of Commerce, Transportation, and Environment and Natural Resources shall report their progress in implementing this section to the House and Senate Commerce Committees and the Joint Legislative Commission on Governmental Operations.

SECTION 3.(a) There is appropriated from the General Fund to the North Carolina Sustainable Communities Task Force, as created by Section 1 of this act, the sum of one hundred thousand dollars ($100,000) for the 2010-2011 fiscal year to be used to support the operation of the North Carolina Sustainable Communities Task Force.

SECTION 3.(b) There is appropriated from the General Fund to the North Carolina Sustainable Communities Task Force, as created by Section 1 of this act, the sum of one hundred twenty-five thousand dollars ($125,000) for the 2010-2011 fiscal year to provide up to fifty percent (50%) of any required local matching funds for recipients of Federal Sustainable Communities Planning Grants and any other federal grants related to sustainable development and requiring local matching funds.

SECTION 3.(c) There is appropriated from the General Fund to the Department of Commerce State Aid the sum of four hundred twenty-five thousand dollars ($425,000) in recurring funds to support the operations of regional Councils of Governments. The Division of Community Assistance shall give priority in funding to Councils of Governments that demonstrate involvement in the activities of the regional partnerships set forth in Section 2(a) of this act.

SECTION 4. G.S. 120-123 is amended by adding a new subdivision to read:

"(79) The North Carolina Sustainable Communities Task Force, as established in Article 9 of Chapter 143B of the General Statutes."

SECTION 5. This act becomes effective July 1, 2010, and expires June 30, 2021.

HOUSE BILL 1701:
NC Sustainable Communities Task Force

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Appropriations	**Date:**	May 25, 2010
Introduced by:	Representatives Weiss, Ross, K. Alexander, Rapp	**Prepared by:**	Jennifer Mundt Legislative Analyst
Analysis of:	PCS to First Edition H1701-CSTA-37 [v.5]		

SUMMARY: ***House Bill 1701 would establish the North Carolina Sustainable Communities Task Force, an interagency collaboration between the Departments of Commerce, Environment and Natural Resources, Transportation, Administration, Health and Human Services, and the North Carolina Housing Finance Agency focused on developing and sustaining healthy, safe, and walkable communities accessible to all North Carolinians.***

House Bill 1701 was recommended by the Legislative Study Commission on Urban Growth and Infrastructure Issues.

[As introduced, this bill was identical to S1333, as introduced by Sen. McKissick, which is currently in Senate Appropriations/Base Budget.]

BACKGROUND: In June 2009, the U.S. Department of Housing and Urban Development (HUD), U.S. Department of Transportation, and the U.S. Environmental Protection Agency joined together to form the interagency Partnership for Sustainable Communities (Partnership). Under the Partnership, these agencies agreed to adopt the following livability principles to: coordinate and guide federal housing, transportation, and environmental investments; protect public health and the environment; promote equitable development; and help address the challenges of climate change: provide more transportation choices; promote equitable, affordable housing; increase economic competitiveness; support existing communities; leverage federal investment; and value communities and neighborhoods

In February 2010, the Office of Sustainable Housing and Communities was created within HUD to support the work of the Partnership to help build stronger communities by connecting housing to transportation, fostering local innovation, and building a clean energy economy. The 2010 FY federal budget provides $150 million to HUD for a Sustainable Communities Initiative within the Office of Sustainable Housing and Communities to stimulate more integrated and sophisticated regional planning to guide state, metropolitan, and local investments in land use, transportation, and housing as well as increase the capacity to improve land use and zoning. Approximately $100 million of the total appropriation will be available for regional integrated planning initiatives, $40 million will be available for challenge grants to local governments and states that wish to implement sustainable ordinances or that require assistance in rewriting zoning codes, and $10 million will be available to support research in policy reform and capacity building.

BILL ANALYSIS: House Bill 1701 would do the following:

Section 1: would add a new Part to Article 7 of Chapter 143B of the General Statutes to establish the North Carolina Sustainable Communities Task Force (Task Force).

G.S. 143B-344.34 makes findings to establish principles that describe sustainable development for North Carolina's communities that are based largely upon the livability principles that guide the federal Partnership and are tailored to address the challenges facing the State's urban cores, rural areas, and smaller communities.

G.S. 143B-344.35 creates the Task Force within the Department of Environment and Natural Resources (DENR) to lead and support the State's sustainable communities initiatives and requires the Task Force to:

1. Apply for, receive, and distribute, on behalf of the State, funding from federal, public, private initiatives, grant programs, or donors that will foster sustainable development in North Carolina.
2. Promote regional partnerships and assist local governments and regional or interlocal organizations in seeking and managing funding related to planning, development or redevelopment of the State's communities in a sustainable manner.
3. Identify federal funding opportunities related to sustainable development.
4. Provide technical assistance to eligible entities in applying for federal and other funding opportunities that includes the development of scenario planning tools, progress measurement metrics, and public participation strategies for use by all applicants.
5. Recommend policies for the support, promotion, and encouragement of sustainable communities to the Secretaries of the Departments of Administration, Commerce, Environment and Natural Resources, and Transportation, the Director of the Division of Public Health in the Department of Health and Human Services, the General Assembly, and the Governor.
6. Recommend annually to the Governor and the General Assembly appropriations for sustainable development programs.
7. Develop a common local government sustainable practices scoring system incorporating the sustainability principles in **G.S. 143B-344.34**.
8. Pursue opportunities to combine the efforts of State agencies related to development and infrastructure; to study how existing regional and interlocal organizations could improve their organization and reduce unnecessary overlap and duplication of services; and to better integrate State efforts and investments with regional and local efforts.

G.S. 143B-344.36 sets out the membership, terms, and staffing of the Task Force. The Task Force membership would consist of 11 members who reflect the diversity of the State.

G.S. 143B-344.37 establishes the North Carolina Sustainable Communities Grant Fund (Fund) in DENR to be administered by the Task Force. Money in the Fund must be used to provide funding to regional bodies, cities, or counties to improve regional planning efforts that integrate housing and transportation decisions and increase the capacity to improve land use and zoning within regions that meet specific criteria. In awarding any grant funding, the Task Force must use the common local government sustainable practices scoring system developed in accordance with **G.S. 143B-344.35(7)**. In its consideration of grant applications, the Task Force may also consider any offers by a partnership to provide matching funds.

G.S. 143B-344.38 sets out two reporting requirements for the Task Force.

1. Annual Report. The Task Force would be required to report to the Governor, the chairs of the House Commerce, Small Business, and Entrepreneurship Committee and the Senate Commerce Committee, and the Joint Legislative Commission on Governmental Operations. The report must include: policy recommendations, suggested legislation, and recommended appropriations; funding applied for and received in the prior fiscal year; a list of the projects for which funding was distributed; a list of the projects for which the Task Force provided technical assistance; the remaining funds available and all grants distributed to regional sustainable development partnerships; and an overview of all State funding initiatives (including State allocated federal funding initiatives) used to support housing, infrastructure, water quality, and land preservation.
2. Biennial Report. The Task Force would be required to report biennially to the same entities listed above on the following: population, employment, building permit, and related socioeconomic data for each metro region of the State, including 25-year projections of population and employment and any other demographic trends the Task Force finds relevant, with commentary on any changing trends in the data that might affect planning for sustainable development and infrastructure; and an inventory and description of State policies and programs that influence either positively or negatively the ability to develop sustainable communities.

Section 2 adds the Task Force to the list of entities upon which members of the General Assembly are not permitted to serve.

Section 3 requires the Departments of Commerce, Transportation, Environment and Natural Resources, Administration, and Health and Human Services to annually report by October 1, beginning in 2010, on each Department's progress in fostering the sustainable development principles set forth in G.S. 143B-344.34 as enacted by Section 1 of this act to the chairs of the House Commerce, Small Business, and Entrepreneurship Committee and the Senate Commerce Committee, and the Joint Legislative Commission on Governmental Operations.

Section 4 includes staffing provisions for the Task Force.

Section 5 appropriates $500,000 from the General Fund to the Task Force for the 2010-2011 fiscal year to be used to support the operation of the Task Force and the grants programs established in Section 1 of the bill

EFFECTIVE DATE: This act would be effective July 1, 2010 and would expire on June 30, 2021.

H1701-SMTA-87(CSTAx-37) v3

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1701*
PROPOSED COMMITTEE SUBSTITUTE H1701-CSTA-37 [v.5]

5/24/2010 6:04:17 PM

Short Title: NC Sustainable Communities Task Force. (Public)

Sponsors:

Referred to:

May 13, 2010

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE NORTH CAROLINA SUSTAINABLE COMMUNITIES TASK FORCE, AN INTERAGENCY COLLABORATION BETWEEN THE DEPARTMENTS OF COMMERCE, ENVIRONMENT AND NATURAL RESOURCES, TRANSPORTATION, ADMINISTRATION, HEALTH AND HUMAN SERVICES, AND THE NORTH CAROLINA HOUSING FINANCE AGENCY FOCUSED ON DEVELOPING AND SUSTAINING HEALTHY, SAFE, AND WALKABLE COMMUNITIES ACCESSIBLE TO ALL NORTH CAROLINIANS, AS RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON URBAN GROWTH AND INFRASTRUCTURE ISSUES.

The General Assembly of North Carolina enacts:

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

"Part 31. North Carolina Sustainable Communities Task Force.

"**§ 143B-344.34. North Carolina Sustainable Communities Task Force – findings.**

(a) The General Assembly finds that the rapid growth of the urban and suburban areas of North Carolina and the economic challenges facing many of the State's urban cores, rural areas, and smaller communities create a significant need for the strategic use of resources to plan and accommodate healthy and equitable development without compromising natural systems and the needs of future generations of North Carolinians.

(b) The General Assembly finds that the following principles describe sustainable development for North Carolina's communities:

(1) Better transportation choices. – Offering safe, reliable, and economical motorized and nonmotorized transportation options to decrease household transportation costs, reduce dependence on foreign oil, improve air quality, reduce greenhouse gas emissions, and promote public health.

(2) Equitable, affordable housing. – Encouraging the provision to North Carolina citizens of all ages, incomes, races, and ethnicities expanded location-, water-, and energy-efficient housing choices that increase mobility, decrease the impact on existing water and energy infrastructure, and lower the combined cost of housing and transportation.

(3) Enhanced economic competitiveness. – Expanding business access to markets and improving North Carolina's economic competitiveness through

reliable and timely access to employment centers, educational opportunities, services, and other basic needs by workers.

(4) Support of existing communities. – Targeting public funds toward existing communities that are using strategies such as transit-oriented, mixed-use development, and land recycling to increase community revitalization, enhance the efficiency and cost-effectiveness of public works investments, and protect rural landscapes.

(5) Coordination and leverage of State policies and investment. – Aligning State and local government policies and funding to remove barriers to collaboration, leverage funding, and increase the accountability and effectiveness of government in planning for future growth.

(6) Recognize and support communities and neighborhoods. – Preserving and enhancing the unique characteristics of rural, urban, and suburban communities by investing in healthy, safe, and walkable neighborhoods.

"**§ 143B-344.35. North Carolina Sustainable Communities Task Force – creation; purpose; duties.**

There is created within the Department of Environment and Natural Resources the North Carolina Sustainable Communities Task Force to lead and support the State's sustainable communities initiatives. The duties of the Task Force shall be as follows:

(1) To apply for, receive, and distribute on behalf of the State, funding from federal, public, or private initiatives, grant programs, or donors that will foster sustainable development in North Carolina.

(2) To promote regional partnerships and to assist local governments and regional or interlocal organizations in North Carolina in seeking and managing funding from federal, public, or private initiatives, grant programs, or donors related to the planning, development, or redevelopment of the State's communities in a sustainable manner.

(3) To identify federal funding opportunities related to sustainable development.

(4) To provide technical assistance to eligible State agencies, local governments, nonprofit organizations or regional collaborations, and partnerships in applying for federal and other funding opportunities. This technical assistance shall include the development of scenario planning tools, progress measurement metrics, and public participation strategies for use by all applicants.

(5) To recommend policies for the support, promotion, and encouragement of sustainable communities to the Secretaries of the Departments of Administration, Commerce, Environment and Natural Resources, and Transportation, the Director of the Division of Public Health in the Department of Health and Human Services, the General Assembly, and the Governor.

(6) To recommend annually to the Governor and the General Assembly appropriations for sustainable development programs.

(7) To develop a common local government sustainable practices scoring system incorporating the principles set forth in G.S. 143B-344.34(b).

(8) To pursue opportunities to combine the efforts of State agencies related to development and infrastructure; to study how existing regional and interlocal organizations could improve their organization and reduce unnecessary overlap and duplication of services; and to better integrate State efforts and investments with regional and local efforts. The Task Force shall include in its recommendations under subdivisions (5) and (6) of this section any

recommendations for legislation necessary to implement any potential improvements identified under this subdivision.

"**§ 143B-344.36. North Carolina Sustainable Communities Task Force – membership; staffing.**

(a) Membership and Advice. – The Task Force shall consist of 11 members who reflect the diversity of the State. The Secretaries of Commerce, Environment and Natural Resources, and Transportation and the Director of the North Carolina Housing Finance Agency shall each designate a representative to the Task Force from their agencies. The Secretary of Administration shall designate a representative from that Department who is familiar with the management and development of State-owned lands and buildings. The Secretary of Health and Human Services shall designate a representative from the Division of Public Health of the Department of Health and Human Services who is familiar with the impact of the built environment on human health. The Governor shall appoint one member who is a representative of a nonprofit organization involved in the planning, advocacy, or creation of sustainable development. The President Pro Tempore of the Senate shall appoint two members: one member who is a representative of a county government and one member who is a representative of a council of government or other regional collaborative organization. The Speaker of the House of Representatives shall appoint two members: one member who is a representative of a city government and one member with professional training in planning who is a member of the North Carolina Chapter of the American Planning Association.

The Secretaries of Commerce, Environment and Natural Resources, Transportation, Administration, and Health and Human Services, or their designees, shall advise the Task Force on sustainable development activities within the responsibility of their respective departments and shall cooperate with the Task Force in jointly seeking funds from federal, public, or private initiatives, grant programs, or donors.

(b) Terms, Vacancies. – The members of the Task Force appointed by the Governor shall have a term of office of four years and shall serve until their successors are appointed and qualified. An appointment to fill a vacancy shall be for the unexpired balance of the term. The remaining members of the Task Force shall serve at the pleasure of the appointing authority.

(c) Staff. – The Departments of Commerce, Environment and Natural Resources, Transportation, Administration, and Health and Human Services shall provide clerical and professional staff support to the Task Force.

(d) Compensation. – The public members of the Task Force shall receive per diem and necessary travel and subsistence expenses payable to members of State boards and agencies as set forth by G.S. 138-5 and G.S. 138-6, respectively.

§ 143B-344.37. North Carolina Sustainable Communities Grant Fund.

(a) Establishment. – The North Carolina Sustainable Communities Grant Fund is established in the Department of Environment and Natural Resources, and the North Carolina Sustainable Communities Task Force within that Department shall be responsible for administering the Fund.

(b) Purposes. – Moneys in the North Carolina Sustainable Communities Grant Fund shall be used, as available, to provide funding to regional bodies, cities, or counties to improve regional planning efforts that integrate housing and transportation decisions and increase the capacity to improve land use and zoning within regions that meet the following requirements:

(1) The regional body, city, or county is a part of a regional sustainable development partnership that includes any of the metro regions as defined in G.S. 143B-344.38(c). Partnerships may also include any Metropolitan Planning Organizations, Regional Planning Organizations, regional transit agencies, and representation from involved State agencies.

(2) The partnership has submitted a work plan to the Task Force describing the activities to be funded and the public comment process by which activities are selected and prioritized.

(3) All members of the partnership have adopted a jointly-developed memorandum of agreement describing how coordinated planning activities will be undertaken.

(c) Funding Guidelines. – In awarding any grant funding, the Task Force shall utilize the common local government sustainable practices scoring system developed in accordance with G.S. 143B-344.35(7). In its consideration of grant applications, the Task Force may also consider any offers by a partnership to provide matching funds.

"**§ 143B-344.38. North Carolina Sustainable Communities Task Force – reports.**

(a) Beginning in 2011, the Task Force shall report to the Governor, the chairs of the House Commerce, Small Business, and Entrepreneurship Committee and the Senate Commerce Committee, and the Joint Legislative Commission on Governmental Operations no later than October 1 each year. The report shall include the following elements:

(1) Policy recommendations, suggested legislation, and recommended appropriations made pursuant to subdivisions (5) (6), and (8) of G.S. 143B-344.35.

(2) Funding applied for and received in the prior fiscal year.

(3) A list of the projects for which funding was distributed to local governments and regional or interlocal organizations in North Carolina for sustainable planning, development, or redevelopment under G.S. 143B-344.35.

(4) A list of the projects for which the Task Force provided technical assistance under G.S. 143B-344.35(4).

(5) The remaining funds available and all grants distributed to regional sustainable development partnerships under G.S. 143B-344.37.

(6) An overview of all State funding initiatives (including State-allocated federal funding initiatives) used to support housing, infrastructure, water quality, and land preservation, including, at a minimum, the following:

a. The Clean Water Management Trust Fund.

b. The Parks and Recreation Trust Fund.

c. The Agricultural Development and Farmland Preservation Trust Fund.

d. The Natural Heritage Trust Fund.

e. The Highway Fund and the Highway Trust Fund.

f. The Congestion Relief and Intermodal Transportation 21st Century Fund.

g. The North Carolina Main Street Program and the Main Street Solutions Fund.

h. The Housing Trust Fund and the low-income housing tax credit funds administered by the Housing Finance Agency.

i. Funds from the Public School Building Capital Fund used by counties for the purchase of land for public school buildings.

j. The tax credits for renewable energy property, historic rehabilitation, and mill rehabilitation set forth in Chapter 105 of the General Statutes.

The overview should include the current funding level, changes in funding over the previous fiscal year, and how the funding initiative has contributed to sustainable development, or, in the case of a tax credit, the number and geographical distribution of taxpayers taking the credit, the amount of

credits claimed, and how the credit has contributed to sustainable development.

(b) In addition to the report required under subsection (a) of this section, beginning in 2011, and on or before October 1 in every odd-numbered year thereafter, the Task Force shall report the following to the Governor, the chairs of the House Commerce, Small Business, and Entrepreneurship Committee and the Senate Commerce Committee, and the Joint Legislative Commission on Governmental Operations:

(1) Population, employment, building permit, and related socioeconomic data for each metro region of the State, including 25-year projections of population and employment and any other demographic trends the Task Force finds relevant, with commentary on any changing trends in the data that might affect planning for sustainable development and infrastructure. Where possible, the Task Force shall use data already collected by the State Demographer, the United States Census Bureau, and any other State or federal agency.

(2) An inventory and description of State policies and programs that influence either positively or negatively the ability to develop sustainable communities.

(c) For purposes of this section, "metro region of the State" includes the following Statistical Areas defined by the United States Census Bureau:

(1) The Research Triangle region (made up of the Durham-Chapel Hill and the Raleigh-Cary Metropolitan Statistical Areas).

(2) The North Carolina portion of the Charlotte-Gastonia-Concord Metropolitan Statistical Area.

(3) The Greensboro-Winston-Salem-High Point Combined Statistical Area.

(4) The Asheville Metropolitan Statistical Area.

(5) The Hickory-Lenoir-Morganton Metropolitan Statistical Area.

(6) The Fayetteville Metropolitan Statistical Area.

(7) The Wilmington Metropolitan Statistical Area.

(8) The Greenville Metropolitan Statistical Area.

(9) The Jacksonville Metropolitan Statistical Area.

(10) The Rocky Mount Metropolitan Statistical Area.

(11) The Goldsboro Metropolitan Statistical Area.

(12) Any other Metropolitan Statistical Area that includes counties of the State and that has a population of 100,000 or more within the State."

SECTION 2. G.S. 120-123 is amended by adding a new subdivision to read:

"(79) The North Carolina Sustainable Communities Task Force, as established in Article 7 of Chapter 143B of the General Statutes."

SECTION 3. Reports. – The Departments of Commerce, Transportation, Environment and Natural Resources, Administration, and Health and Human Services shall report by October 1 each year, beginning in 2010, the chairs of the House Commerce, Small Business, and Entrepreneurship Committee and the Senate Commerce Committee, and the Joint Legislative Commission on Governmental Operations. The report shall provide information regarding each Department's progress in fostering the sustainable development principles set forth in G.S. 143B-344.34 as enacted by Section 1 of this act.

SECTION 4. Staffing. – The Department of Environment and Natural Resources shall transfer the vacant District Planner position in the Division of Coastal Management to the North Carolina Sustainable Communities Task Force and shall fill the position in a timely manner in order to provide support for the operations and activities of the Task Force. For administrative purposes, the Task Force shall be located in the Department's Division of

Environmental Assistance and Outreach, and the Division shall also provide appropriate administrative and clerical support for the activities of the Task Force.

SECTION 5. Appropriation. – There is appropriated from the General Fund to the North Carolina Sustainable Communities Task Force, as created by Section 1 of this act, the sum of five hundred thousand dollars ($500,000) for the 2010-2011 fiscal year to be used to support the operation of the North Carolina Sustainable Communities Task Force and the grants program set forth in Section 1 of this act.

SECTION 6. This act becomes effective July 1, 2010, and expires June 30, 2021.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 1701 DATE 5-25-10

S. B. No. _____ Amendment No. 1

COMMITTEE SUBSTITUTE ✓ H1701-CSTA-37[V.5] (to be filled in by Principal Clerk)

(Rep.) Gillespie
Sen.)

1 moves to amend the bill on page 5, line 20
2 ( ) WHICH CHANGES THE TITLE
3 by rewriting that line to read:
4
5 "Statistical Areas defined by the United
6
7 States Census Bureau using data
8
9 from the most recent federal
10
11 decennial census:".
12
13
14
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18
19

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____
vote 7-5

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1701*
PROPOSED COMMITTEE SUBSTITUTE H1701-PCS11118-TA-37

Short Title: NC Sustainable Communities Task Force. (Public)

Sponsors:

Referred to:

May 13, 2010

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE NORTH CAROLINA SUSTAINABLE COMMUNITIES TASK FORCE, AN INTERAGENCY COLLABORATION BETWEEN THE DEPARTMENTS OF COMMERCE, ENVIRONMENT AND NATURAL RESOURCES, TRANSPORTATION, ADMINISTRATION, HEALTH AND HUMAN SERVICES, AND THE NORTH CAROLINA HOUSING FINANCE AGENCY FOCUSED ON DEVELOPING AND SUSTAINING HEALTHY, SAFE, AND WALKABLE COMMUNITIES ACCESSIBLE TO ALL NORTH CAROLINIANS, AS RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON URBAN GROWTH AND INFRASTRUCTURE ISSUES.

The General Assembly of North Carolina enacts:

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

"Part 31. North Carolina Sustainable Communities Task Force.

"**§ 143B-344.34. North Carolina Sustainable Communities Task Force – findings.**

(a) The General Assembly finds that the rapid growth of the urban and suburban areas of North Carolina and the economic challenges facing many of the State's urban cores, rural areas, and smaller communities create a significant need for the strategic use of resources to plan and accommodate healthy and equitable development without compromising natural systems and the needs of future generations of North Carolinians.

(b) The General Assembly finds that the following principles describe sustainable development for North Carolina's communities:

(1) Better transportation choices. – Offering safe, reliable, and economical motorized and nonmotorized transportation options to decrease household transportation costs, reduce dependence on foreign oil, improve air quality, reduce greenhouse gas emissions, and promote public health.

(2) Equitable, affordable housing. – Encouraging the provision to North Carolina citizens of all ages, incomes, races, and ethnicities expanded location-, water-, and energy-efficient housing choices that increase mobility, decrease the impact on existing water and energy infrastructure, and lower the combined cost of housing and transportation.

(3) Enhanced economic competitiveness. – Expanding business access to markets and improving North Carolina's economic competitiveness through

reliable and timely access to employment centers, educational opportunities, services, and other basic needs by workers.

(4) Support of existing communities. – Targeting public funds toward existing communities that are using strategies such as transit-oriented, mixed-use development, and land recycling to increase community revitalization, enhance the efficiency and cost-effectiveness of public works investments, and protect rural landscapes.

(5) Coordination and leverage of State policies and investment. – Aligning State and local government policies and funding to remove barriers to collaboration, leverage funding, and increase the accountability and effectiveness of government in planning for future growth.

(6) Recognize and support communities and neighborhoods. – Preserving and enhancing the unique characteristics of rural, urban, and suburban communities by investing in healthy, safe, and walkable neighborhoods.

"**§ 143B-344.35. North Carolina Sustainable Communities Task Force – creation; purpose; duties.**

There is created within the Department of Environment and Natural Resources the North Carolina Sustainable Communities Task Force to lead and support the State's sustainable communities initiatives. The duties of the Task Force shall be as follows:

(1) To apply for, receive, and distribute on behalf of the State, funding from federal, public, or private initiatives, grant programs, or donors that will foster sustainable development in North Carolina.

(2) To promote regional partnerships and to assist local governments and regional or interlocal organizations in North Carolina in seeking and managing funding from federal, public, or private initiatives, grant programs, or donors related to the planning, development, or redevelopment of the State's communities in a sustainable manner.

(3) To identify federal funding opportunities related to sustainable development.

(4) To provide technical assistance to eligible State agencies, local governments, nonprofit organizations or regional collaborations, and partnerships in applying for federal and other funding opportunities. This technical assistance shall include the development of scenario planning tools, progress measurement metrics, and public participation strategies for use by all applicants.

(5) To recommend policies for the support, promotion, and encouragement of sustainable communities to the Secretaries of the Departments of Administration, Commerce, Environment and Natural Resources, and Transportation, the Director of the Division of Public Health in the Department of Health and Human Services, the General Assembly, and the Governor.

(6) To recommend annually to the Governor and the General Assembly appropriations for sustainable development programs.

(7) To develop a common local government sustainable practices scoring system incorporating the principles set forth in G.S. 143B-344.34(b).

(8) To pursue opportunities to combine the efforts of State agencies related to development and infrastructure; to study how existing regional and interlocal organizations could improve their organization and reduce unnecessary overlap and duplication of services; and to better integrate State efforts and investments with regional and local efforts. The Task Force shall include in its recommendations under subdivisions (5) and (6) of this section any

recommendations for legislation necessary to implement any potential improvements identified under this subdivision.

"**§ 143B-344.36. North Carolina Sustainable Communities Task Force – membership; staffing.**

(a) Membership and Advice. – The Task Force shall consist of 11 members who reflect the diversity of the State. The Secretaries of Commerce, Environment and Natural Resources, and Transportation and the Director of the North Carolina Housing Finance Agency shall each designate a representative to the Task Force from their agencies. The Secretary of Administration shall designate a representative from that Department who is familiar with the management and development of State-owned lands and buildings. The Secretary of Health and Human Services shall designate a representative from the Division of Public Health of the Department of Health and Human Services who is familiar with the impact of the built environment on human health. The Governor shall appoint one member who is a representative of a nonprofit organization involved in the planning, advocacy, or creation of sustainable development. The President Pro Tempore of the Senate shall appoint two members: one member who is a representative of a county government and one member who is a representative of a council of government or other regional collaborative organization. The Speaker of the House of Representatives shall appoint two members: one member who is a representative of a city government and one member with professional training in planning who is a member of the North Carolina Chapter of the American Planning Association.

The Secretaries of Commerce, Environment and Natural Resources, Transportation, Administration, and Health and Human Services, or their designees, shall advise the Task Force on sustainable development activities within the responsibility of their respective departments and shall cooperate with the Task Force in jointly seeking funds from federal, public, or private initiatives, grant programs, or donors.

(b) Terms, Vacancies. – The members of the Task Force appointed by the Governor shall have a term of office of four years and shall serve until their successors are appointed and qualified. An appointment to fill a vacancy shall be for the unexpired balance of the term. The remaining members of the Task Force shall serve at the pleasure of the appointing authority.

(c) Staff. – The Departments of Commerce, Environment and Natural Resources, Transportation, Administration, and Health and Human Services shall provide clerical and professional staff support to the Task Force.

(d) Compensation. – The public members of the Task Force shall receive per diem and necessary travel and subsistence expenses payable to members of State boards and agencies as set forth by G.S. 138-5 and G.S. 138-6, respectively.

"**§ 143B-344.37. North Carolina Sustainable Communities Grant Fund.**

(a) Establishment. – The North Carolina Sustainable Communities Grant Fund is established in the Department of Environment and Natural Resources, and the North Carolina Sustainable Communities Task Force within that Department shall be responsible for administering the Fund.

(b) Purposes. – Moneys in the North Carolina Sustainable Communities Grant Fund shall be used, as available, to provide funding to regional bodies, cities, or counties to improve regional planning efforts that integrate housing and transportation decisions and increase the capacity to improve land use and zoning within regions that meet the following requirements:

(1) The regional body, city, or county is a part of a regional sustainable development partnership that includes any of the metro regions as defined in G.S. 143B-344.38(c). Partnerships may also include any Metropolitan Planning Organizations, Regional Planning Organizations, regional transit agencies, and representation from involved State agencies.

(2) The partnership has submitted a work plan to the Task Force describing the activities to be funded and the public comment process by which activities are selected and prioritized.

(3) All members of the partnership have adopted a jointly developed memorandum of agreement describing how coordinated planning activities will be undertaken.

(c) Funding Guidelines. – In awarding any grant funding, the Task Force shall utilize the common local government sustainable practices scoring system developed in accordance with G.S. 143B-344.35(7). In its consideration of grant applications, the Task Force may also consider any offers by a partnership to provide matching funds.

"**§ 143B-344.38. North Carolina Sustainable Communities Task Force – reports.**

(a) Beginning in 2011, the Task Force shall report to the Governor, the chairs of the House Commerce, Small Business, and Entrepreneurship Committee and the Senate Commerce Committee, and the Joint Legislative Commission on Governmental Operations no later than October 1 each year. The report shall include the following elements:

(1) Policy recommendations, suggested legislation, and recommended appropriations made pursuant to subdivisions (5), (6), and (8) of G.S. 143B-344.35.

(2) Funding applied for and received in the prior fiscal year.

(3) A list of the projects for which funding was distributed to local governments and regional or interlocal organizations in North Carolina for sustainable planning, development, or redevelopment under G.S. 143B-344.35.

(4) A list of the projects for which the Task Force provided technical assistance under G.S. 143B-344.35(4).

(5) The remaining funds available and all grants distributed to regional sustainable development partnerships under G.S. 143B-344.37.

(6) An overview of all State funding initiatives (including State-allocated federal funding initiatives) used to support housing, infrastructure, water quality, and land preservation, including, at a minimum, the following:

a. The Clean Water Management Trust Fund.

b. The Parks and Recreation Trust Fund.

c. The Agricultural Development and Farmland Preservation Trust Fund.

d. The Natural Heritage Trust Fund.

e. The Highway Fund and the Highway Trust Fund.

f. The Congestion Relief and Intermodal Transportation 21st Century Fund.

g. The North Carolina Main Street Program and the Main Street Solutions Fund.

h. The Housing Trust Fund and the low-income housing tax credit funds administered by the Housing Finance Agency.

i. Funds from the Public School Building Capital Fund used by counties for the purchase of land for public school buildings.

j. The tax credits for renewable energy property, historic rehabilitation, and mill rehabilitation set forth in Chapter 105 of the General Statutes.

The overview should include the current funding level, changes in funding over the previous fiscal year, and how the funding initiative has contributed to sustainable development, or, in the case of a tax credit, the number and geographical distribution of taxpayers taking the credit, the amount of

credits claimed, and how the credit has contributed to sustainable development.

(b) In addition to the report required under subsection (a) of this section, beginning in 2011, and on or before October 1 in every odd-numbered year thereafter, the Task Force shall report the following to the Governor, the chairs of the House Commerce, Small Business, and Entrepreneurship Committee and the Senate Commerce Committee, and the Joint Legislative Commission on Governmental Operations:

(1) Population, employment, building permit, and related socioeconomic data for each metro region of the State, including 25-year projections of population and employment and any other demographic trends the Task Force finds relevant, with commentary on any changing trends in the data that might affect planning for sustainable development and infrastructure. Where possible, the Task Force shall use data already collected by the State Demographer, the United States Census Bureau, and any other State or federal agency.

(2) An inventory and description of State policies and programs that influence either positively or negatively the ability to develop sustainable communities.

(c) For purposes of this section, "metro region of the State" includes the following Statistical Areas defined by the United States Census Bureau using data from the most recent federal decennial census:

(1) The Research Triangle region (made up of the Durham-Chapel Hill and the Raleigh-Cary Metropolitan Statistical Areas).

(2) The North Carolina portion of the Charlotte-Gastonia-Concord Metropolitan Statistical Area.

(3) The Greensboro-Winston-Salem-High Point Combined Statistical Area.

(4) The Asheville Metropolitan Statistical Area.

(5) The Hickory-Lenoir-Morganton Metropolitan Statistical Area.

(6) The Fayetteville Metropolitan Statistical Area.

(7) The Wilmington Metropolitan Statistical Area.

(8) The Greenville Metropolitan Statistical Area.

(9) The Jacksonville Metropolitan Statistical Area.

(10) The Rocky Mount Metropolitan Statistical Area.

(11) The Goldsboro Metropolitan Statistical Area.

(12) Any other Metropolitan Statistical Area that includes counties of the State and that has a population of 100,000 or more within the State."

SECTION 2. G.S. 120-123 is amended by adding a new subdivision to read:

"(79) The North Carolina Sustainable Communities Task Force, as established in Article 7 of Chapter 143B of the General Statutes."

SECTION 3. Reports. – The Departments of Commerce, Transportation, Environment and Natural Resources, Administration, and Health and Human Services shall report by October 1 each year, beginning in 2010, to the chairs of the House Commerce, Small Business, and Entrepreneurship Committee and the Senate Commerce Committee, and the Joint Legislative Commission on Governmental Operations. The report shall provide information regarding each Department's progress in fostering the sustainable development principles set forth in G.S. 143B-344.34 as enacted by Section 1 of this act.

SECTION 4. Staffing. – The Department of Environment and Natural Resources shall transfer the vacant District Planner position in the Division of Coastal Management to the North Carolina Sustainable Communities Task Force and shall fill the position in a timely manner in order to provide support for the operations and activities of the Task Force. For administrative purposes, the Task Force shall be located in the Department's Division of

Environmental Assistance and Outreach, and the Division shall also provide appropriate administrative and clerical support for the activities of the Task Force.

SECTION 5. Appropriation. – There is appropriated from the General Fund to the North Carolina Sustainable Communities Task Force, as created by Section 1 of this act, the sum of five hundred thousand dollars ($500,000) for the 2010-2011 fiscal year to be used to support the operation of the North Carolina Sustainable Communities Task Force and the grants program set forth in Section 1 of this act.

SECTION 6. This act becomes effective July 1, 2010, and expires June 30, 2021.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representatives Tarleton, Harrison, Underhill(Vice-Chairs) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

HB 1701 A BILL TO BE ENTITLED AN ACT TO ESTABLISH THE NORTH CAROLINA SUSTAINABLE COMMUNITIES TASK FORCE, AN INTERAGENCY COLLABORATION BETWEEN THE DEPARTMENTS OF ADMINISTRATION, COMMERCE, ENVIRONMENT AND NATURAL RESOURCES, TRANSPORTATION, HEALTH AND HUMAN SERVICES, AND THE NORTH CAROLINA HOUSING FINANCE AGENCY FOCUSED ON DEVELOPING AND SUSTAINING HEALTHY, SAFE, AND WALKABLE COMMUNITIES ACCESSIBLE TO ALL NORTH CAROLINIANS, AS RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON URBAN GROWTH AND INFRASTRUCTURE ISSUES.

☒ With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on APPROPRIATIONS.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 1

HOUSE BILL 1708

Short Title:	Clean Marinas Amendments.	(Public)
Sponsors:	Representatives McComas, Justice, Underhill, Harrison (Primary Sponsors); Gill and Hughes.	
Referred to:	Environment and Natural Resources, if favorable, Marine Resources and Aquaculture.	

May 17, 2010

A BILL TO BE ENTITLED

AN ACT TO DELAY THE EFFECTIVE DATE OF THE CLEAN COASTAL WATER AND VESSEL ACT FROM JULY 1, 2010, TO DECEMBER 1, 2010, AND TO LIMIT THE ACT'S APPLICATION TO ONLY THOSE AREAS THAT ARE DESIGNATED AS NO DISCHARGE ZONES BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 77-131 reads as rewritten:

"**§ 77-131. Application of Article.**

The provisions of this Article apply only to the following:

(1) A large vessel marina that is located on coastal waters designated by the Environmental Protection Agency as a no discharge zone or that is located in a county or municipality that has adopted a resolution to petition the Environmental Protection Agency for a no discharge zone designation.

(2) A vessel in coastal waters that ~~are either~~ is designated as a no discharge zone ~~or are included in a petition to the Environmental Protection Agency to be designated as a no discharge zone unless the petition has been denied~~ by the Environmental Protection Agency."

SECTION 2. Section 3 of S.L. 2009-345 reads as rewritten:

"**SECTION 3.** Section 1 of this act becomes effective ~~July~~ December 1, 2010, and applies to offenses committed on or after that date. The remainder of this act is effective when it becomes law."

SECTION 3. This act is effective when it becomes law.

HOUSE BILL 1708:
Clean Marinas Amendments

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Marine Resources and Aquaculture	**Date:**	May 25, 2010
Introduced by:	Reps. McComas, Justice, Underhill, Harrison	**Prepared by:**	Jennifer McGinnis Committee Counsel
Analysis of:	First Edition		

SUMMARY: House Bill 1708 would: (1) limit the Clean Coastal Water and Vessel Act's application to only those areas that are designated as no discharge zones (NDZs) by the United States Environmental Protection Agency (USEPA); and (2) delay the effective date of the Act from July 1, 2010 to December 1, 2010.

CURRENT LAW: The Clean Coastal Water and Vessel Act (Act), enacted in 2009: (i) requires that owners or operators of certain marinas[1] install and maintain pumpout facilities, **(ii) prohibits the discharge of effluent from a vessel into coastal waters that are either designated as a NDZ *or are included in a petition to the USEPA to be designated as a NDZ unless the petition has been denied*,** (iii) requires an owner or operator of any marina who knows that a vessel docked at the marina has unlawfully discharged sewage into coastal waters to report the unlawful discharges to the appropriate law enforcement agency; (iv) requires vessel owners and operators to keep a log regarding the date and location of pumpouts; and (v) requires the Division of Coastal Management of the Department of Environment and Natural Resources (DENR) to design and implement a pilot program in New Hanover county to begin phasing in the proposed pumpout facility requirements. **The Act's provisions are scheduled to become effective July 1, 2010.**

BACKGROUND:

Section 1 -- After enactment, language that made the Act's provisions applicable to vessels in coastal waters that are included in a petition to the USEPA to be designated as a NDZ was discovered to be potentially preempted by federal law. Section 312(f)(1)(A) of the Clean Water Act provides in part: "... no State or political subdivision thereof shall adopt or enforce any statute or regulation of such State or political subdivision with respect to the design, manufacture, or installation or use of any marine sanitation devise on any vessel subject to the provisions of this section."

Section 2 -- DENR requested a six-month delay in the effective date of the Act's provisions in order to adopt necessary rules and otherwise implement the program.

BILL ANALYSIS: The bill would: (1) limit the Act's application to only those areas that are designated as NDZs by the USEPA; and (2) delay the effective date of the Act from July 1, 2010 to December 1, 2010.

EFFECTIVE DATE: The bill would be effective when it becomes law.

H1708-SMRI-88(e1) v3

[1]Marinas that have docking facilities and have more than 10 wet slips for vessels of 26 feet or more that have marine sanitation devices. The term includes privately and publicly owned marinas and anchorages.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representatives Tarleton, Harrison, and Underhill (Vice-Chairs) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

HB 1708 A BILL TO BE ENTITLED AN ACT TO DELAY THE EFFECTIVE DATE OF THE CLEAN COASTAL WATER AND VESSEL ACT FROM JULY 1, 2010, TO DECEMBER 1, 2010, AND TO LIMIT THE ACT'S APPLICATION TO ONLY THOSE AREAS THAT ARE DESIGNATED AS NO DISCHARGE ZONES BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on MARINE RESOURCES AND AQUACULTURE.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ The bill/resolution is re-referred to the Committee on _____.

HOUSE BILL 1720*

Short Title:	Extend Zoo Funds & Org. Study Committee.	(Public)
Sponsors:	Representatives Brubaker, E. Warren, Harrison (Primary Sponsors); Dockham, Hurley, McLawhorn, and Tarleton.	
Referred to:	Environment and Natural Resources, if favorable, Rules, Calendar, and Operations of the House.	

May 17, 2010

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE NORTH CAROLINA ZOOLOGICAL PARK FUNDING AND ORGANIZATION STUDY COMMITTEE, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Section 5.11 of S.L. 2009-329 reads as rewritten:

"**SECTION 5.11.** Report. – The Committee shall report its findings and recommendations to the ~~2010~~ 2011 Regular Session of the ~~2009~~ 2011 General Assembly and the Environmental Review Commission on or before ~~May 1,~~December 31, 2010, at which time the Committee shall terminate."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 1720:
Extend Zoo Funds & Org. Study Committee

2009-2010 General Assembly

Committee:	Environment and Natural Resources, if favorable, Rules, Calendar, and Operations of the House	**Date:**	May 25, 2010
Introduced by:	Reps. Brubaker, E. Warren, Harrison	**Prepared by:**	Jennifer McGinnis Committee Counsel
Analysis of:	PCS to First Edition H1720-CSRF-81[v.3]		

SUMMARY: The Proposed Committee Substitute (PCS) for House Bill 1720 would: (1) extend the North Carolina Zoological Park Funding and Organization Study Committee to December 31, 2010; and (2) authorize the Division of Motor Vehicles (DMV) to issue special registration plates for the North Carolina Zoological Society (Society), with a different design logo than "First in Flight."

[As introduced, this bill was identical to S1179, as introduced by Sen. Brunstetter, which is currently in Rules and Operations of the Senate.]

CURRENT LAW: S.L. 2009-329 established the North Carolina Zoological Park Funding and Organization Study Committee to study: (i) funding issues associated with the Zoological Park, including current and expected capital and operational needs, current sources of revenue, and potential funding mechanisms; and (ii) the current organizational structure of the Zoological Park, and other potential organizational structures, including, but not limited to, reorganization as an authority, as a private nonprofit corporation, or other entity to determine which organizational structure would most effectively achieve the mission of the Zoological Park. Under the legislation, the Committee was required to report to the 2010 Regular Session of the 2009 General Assembly and the Environmental Review Commission, on or before May 1, 2010, and then terminate on that date. Several issues brought before the Committee remain unresolved, including ways to address the special information technology needs of the Zoo, as well as execution of a revised Memorandum of Understanding between the Department of Environment and Natural Resources and the Society.

With regard to the authorization to DMV to issue special registration plates for the Society, G.S. 20-63(b) requires that all registration plates must be "First in Flight" plates, unless a different plate is expressly authorized by the statute and a different design is approved by the DMV and the State Highway Patrol. Although the Society originally received authority to issue a special plate in 1993 (see S.L. 1993-543, G.S. 20-81.12), the Society was not included in the statute that authorized a design different than ""First in Flight."

BILL ANALYSIS: The PCS would: (1) extend the Committee from May 1, 2010 to December 31, 2010; and (2) would authorize the DMV to issue special registration plates for the North Carolina Zoological Society (Society), with a different design logo than "First in Flight."

EFFECTIVE DATE: The PCS would be effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1720*
PROPOSED COMMITTEE SUBSTITUTE H1720-PCS11119-RF-81

Short Title: Extend Zoo Funds & Org. Study Committee. (Public)

Sponsors:

Referred to:

May 17, 2010

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE NORTH CAROLINA ZOOLOGICAL PARK FUNDING AND ORGANIZATION STUDY COMMITTEE, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION AND TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE SPECIAL REGISTRATION PLATES FOR THE NORTH CAROLINA ZOOLOGICAL SOCIETY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 5.11 of S.L. 2009-329 reads as rewritten:

"**SECTION 5.11.** Report. – The Committee shall report its findings and recommendations to the ~~2010~~ 2011 Regular Session of the ~~2009~~ 2011 General Assembly and the Environmental Review Commission on or before ~~May 1,~~December 31, 2010, at which time the Committee shall terminate."

SECTION 2. G.S. 20-63(b) reads as rewritten:

"(b) Every license plate shall have displayed upon it the registration number assigned to the vehicle for which it is issued, the name of the State of North Carolina, which may be abbreviated, and the year number for which it is issued or the date of expiration. A plate issued for a commercial vehicle, as defined in G.S. 20-4.2(1), and weighing 26,001 pounds or more, must bear the word "commercial," unless the plate is a special registration plate authorized in G.S. 20-79.4 or the commercial vehicle is a trailer or is licensed for 6,000 pounds or less. The plate issued for vehicles licensed for 7,000 pounds through 26,000 pounds must bear the word "weighted".

Except as otherwise provided in this subsection, a registration plate issued by the Division for a private passenger vehicle or for a private hauler vehicle licensed for 6,000 pounds or less shall be a "First in Flight" plate. A "First in Flight" plate shall have the words "First in Flight" printed at the top of the plate above all other letters and numerals. The background of the plate shall depict the Wright Brothers biplane flying over Kitty Hawk Beach, with the plane flying slightly upward and to the right. The following special registration plates do not have to be a "First in Flight" plate. The design of the plates that are not "First in Flight" plates must be approved by the Division and the State Highway Patrol for clarity and ease of identification.

(1) Friends of the Great Smoky Mountains National Park.
(2) Rocky Mountain Elk Foundation.
(3) Blue Ridge Parkway Foundation.
(4) Friends of the Appalachian Trail.
(5) NC Coastal Federation.

(6) In God We Trust.
(7) Stock Car Racing Theme.
(8) Buddy Pelletier Surfing Foundation.
(9) Guilford Battleground Company.
(10) National Wild Turkey Federation.
(11) North Carolina Aquarium Society.
(12) First in Forestry.
(13) North Carolina Wildlife Habitat Foundation.
(14) NC Trout Unlimited.
(15) Ducks Unlimited.
(16) Lung Cancer Research.
(17) NC State Parks.
(18) Support Our Troops.
(19) US Equine Rescue League.
(20) Fox Hunting.
(21) Back Country Horsemen of North Carolina.
(22) Hospice Care.
(23) Home Care and Hospice.
(24) NC Tennis Foundation.
(25) AIDS Awareness.
(26) The North Carolina Zoological Society."

SECTION 3. This act is effective when it becomes law.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representatives Tarleton, Harrison, and Underhill (Vice-Chairs) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

HB 1720 A BILL TO BE ENTITLED AN ACT TO EXTEND THE NORTH CAROLINA ZOOLOGICAL PARK FUNDING AND ORGANIZATION STUDY COMMITTEE, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☒ With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

H 1

HOUSE BILL 1803*

Short Title:	Study - NC Programs That Impact Environment.	(Public)
Sponsors:	Representatives Harrison, Underhill, Wilkins (Primary Sponsors); M. Alexander, Carney, Earle, Faison, Fisher, Gill, Glazier, Hughes, Insko, Luebke, and McLawhorn.	
Referred to:	Environment and Natural Resources, if favorable, State Government/State Personnel.	

May 19, 2010

A BILL TO BE ENTITLED

AN ACT TO DIRECT STATE AGENCIES TO REVIEW THEIR ENVIRONMENTAL PROGRAMS AND RECOMMEND WHETHER THE ENVIRONMENTAL PROGRAMS SHOULD INCLUDE CONSIDERATION OF GLOBAL CLIMATE CHANGE, AS RECOMMENDED BY THE LEGISLATIVE COMMISSION ON GLOBAL CLIMATE CHANGE.

The General Assembly of North Carolina enacts:

SECTION 1. Each State agency shall review its programs, including planning and regulatory programs, that consider environmental impacts and determine whether the program currently considers the impacts of global climate change. For those programs that currently consider the impacts of global climate change, the agency shall describe how the program considers the impacts of global climate change and recommend whether the consideration of the impacts of global climate change should be modified or expanded. For those programs that do not currently consider the impacts of global climate change, the agency shall recommend if and how the program should consider the impacts of global climate change.

SECTION 2. No later than September 1, 2011, each State agency shall report the results of its review and any recommendations to the Department of Environment and Natural Resources. The Department shall compile the results and recommendations and report them to the Environmental Review Commission and to any future legislative commission that directly and primarily addresses issues concerning global climate change no later than November 1, 2011.

SECTION 3. As used in this act, "State agency" means the State of North Carolina or any board, bureau, commission, department, institution, or agency of the State.

SECTION 4. This act is effective when it becomes law.

HOUSE BILL 1803: Review NC Programs for Climate Change Impacts.

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, State Government/State Personnel	**Date:**	May 25, 2010
Introduced by:	Reps. Harrison, Underhill, Wilkins	**Prepared by:**	Jennifer Mundt Legislative Analyst
Analysis of:	PCS to First Edition H1803-CSTA-38		

SUMMARY: ***House Bill 1803 would direct State agencies to review their programs, including planning and regulatory programs that consider environmental impacts and recommend whether those programs should include consideration of the impacts of global climate change.***

House Bill 1803 is a recommendation of the Legislative Commission on Global Climate Change.

[As introduced, this bill was identical to S1224, as introduced by Sen. Stein, which is currently in Rules and Operations of the Senate.]

BILL ANALYSIS: House Bill 1803 would direct each State agency – defined to mean the State of North Carolina or any board, bureau, commission, department, institution, or agency of the State – to review its programs, including planning and regulatory programs that consider environmental impacts and determine whether the program currently considers the impacts of global climate change. For those programs that consider the impacts of global climate change, the agency must describe how the program considers those impacts and recommend whether the consideration should be modified or expanded. For those programs that do not consider the impacts of global climate change, the agency must recommend if and how the program should consider the impacts of global climate change.

Each State agency would be required to report to the results of its review and recommendations to the Department of Environment and Natural Resources (DENR) no later than September 1, 2011. DENR would be required to compile the results and recommendations received and report the compilation to the Environmental Review Commission and to any future legislative commission that directly and primarily addresses issues concerning global climate change no later than November 1, 2011.

EFFECTIVE DATE: The bill would be effective when it becomes law.

H1803-SMTA-85(CSTA-38) v3

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1803*
PROPOSED COMMITTEE SUBSTITUTE H1803-CSTA-38 [v.2]

5/24/2010 1:22:04 PM

Short Title: Review NC Programs for Climate Change Impacts. (Public)

Sponsors:

Referred to:

May 19, 2010

A BILL TO BE ENTITLED

AN ACT TO DIRECT STATE AGENCIES TO REVIEW THEIR PROGRAMS, INCLUDING PLANNING AND REGULATORY PROGRAMS THAT CONSIDER ENVIRONMENTAL IMPACTS AND RECOMMEND WHETHER THOSE PROGRAMS SHOULD INCLUDE CONSIDERATION OF THE IMPACTS OF GLOBAL CLIMATE CHANGE, AS RECOMMENDED BY THE LEGISLATIVE COMMISSION ON GLOBAL CLIMATE CHANGE.

The General Assembly of North Carolina enacts:

SECTION 1. Each State agency shall review its programs, including planning and regulatory programs that consider environmental impacts and determine whether the program currently considers the impacts of global climate change. For those programs that currently consider the impacts of global climate change, the agency shall describe how the program considers the impacts of global climate change and recommend whether the consideration of the impacts of global climate change should be modified or expanded. For those programs that do not currently consider the impacts of global climate change, the agency shall recommend if and how the program should consider the impacts of global climate change.

SECTION 2. No later than September 1, 2011, each State agency shall report the results of its review and any recommendations to the Department of Environment and Natural Resources. The Department shall compile the results and recommendations and report them to the Environmental Review Commission and to any future legislative commission that directly and primarily addresses issues concerning global climate change no later than November 1, 2011.

SECTION 3. As used in this act, "State agency" means the State of North Carolina or any board, bureau, commission, department, institution, or agency of the State.

SECTION 4. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 1803 DATE 5-25-10

S. B. No. _____ Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE ✓ H1803-CSTA-38[v.2]

(Rep.) Gillespie
(Sen.)

moves to amend the bill on page 1, line s 16 & 17

( ) WHICH CHANGES THE TITLE

by inserting between those lines

"SECTION 1.(a) No agency shall implement any recommendation identified pursuant to section 1 of this act without authorization ~~by~~ from the General Assembly."

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1803*
PROPOSED COMMITTEE SUBSTITUTE H1803-PCS50911-TA-38

Short Title: Review NC Programs for Climate Change Impacts. (Public)

Sponsors:

Referred to:

May 19, 2010

A BILL TO BE ENTITLED

AN ACT TO DIRECT STATE AGENCIES TO REVIEW THEIR PROGRAMS, INCLUDING PLANNING AND REGULATORY PROGRAMS THAT CONSIDER ENVIRONMENTAL IMPACTS AND RECOMMEND WHETHER THOSE PROGRAMS SHOULD INCLUDE CONSIDERATION OF THE IMPACTS OF GLOBAL CLIMATE CHANGE, AS RECOMMENDED BY THE LEGISLATIVE COMMISSION ON GLOBAL CLIMATE CHANGE.

The General Assembly of North Carolina enacts:

SECTION 1. Each State agency shall review its programs, including planning and regulatory programs that consider environmental impacts and determine whether the program currently considers the impacts of global climate change. For those programs that currently consider the impacts of global climate change, the agency shall describe how the program considers the impacts of global climate change and recommend whether the consideration of the impacts of global climate change should be modified or expanded. For those programs that do not currently consider the impacts of global climate change, the agency shall recommend if and how the program should consider the impacts of global climate change.

SECTION 2. No agency shall implement any recommendations identified pursuant to Section 1 of this act without authorization from the General Assembly.

SECTION 3. No later than September 1, 2011, each State agency shall report the results of its review and any recommendations to the Department of Environment and Natural Resources. The Department shall compile the results and recommendations and report them to the Environmental Review Commission and to any future legislative commission that directly and primarily addresses issues concerning global climate change no later than November 1, 2011.

SECTION 4. As used in this act, "State agency" means the State of North Carolina or any board, bureau, commission, department, institution, or agency of the State.

SECTION 5. This act is effective when it becomes law.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representatives Tarleton, Harrison, and Underhill (Vice-Chairs) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

HB 1803 A BILL TO BE ENTITLED AN ACT TO DIRECT STATE AGENCIES TO REVIEW THEIR ENVIRONMENTAL PROGRAMS AND RECOMMEND WHETHER THE ENVIRONMENTAL PROGRAMS SHOULD INCLUDE CONSIDERATION OF GLOBAL CLIMATE CHANGE, AS RECOMMENDED BY THE LEGISLATIVE COMMISSION ON GLOBAL CLIMATE CHANGE.

☒ With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on STATE GOVERNMENT/STATE PERSONNEL.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ___) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

H 1

HOUSE BILL 1805*

Short Title:	Funds to Assess/Monitor NC Climate Change.	(Public)
Sponsors:	Representatives Harrison, Underhill, Wilkins (Primary Sponsors); K. Alexander, M. Alexander, Faison, Gill, Glazier, Hughes, Insko, Luebke, and McLawhorn.	
Referred to:	Environment and Natural Resources, if favorable, Appropriations.	

May 19, 2010

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS (1) TO ESTABLISH THE COASTAL ADAPTATION RESOURCES MAPPING AND MONITORING PROGRAM AND (2) TO EXPAND THE NORTH CAROLINA ENVIRONMENT AND CLIMATE OBSERVING NETWORK; IN ORDER TO PROVIDE FOR MONITORING OF THE ENVIRONMENTAL IMPACTS OF GLOBAL CLIMATE CHANGE IN NORTH CAROLINA AND FOR IMPROVING WEATHER AND CLIMATE DATA COLLECTION IN NORTH CAROLINA, AS RECOMMENDED BY THE LEGISLATIVE COMMISSION ON GLOBAL CLIMATE CHANGE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Coastal Adaptation Resources Mapping and Monitoring Program (CARMAP) is established within the Department of Environment and Natural Resources. This program shall be a cooperative program that utilizes the resources within the Department and the constituent universities within The University of North Carolina. This program shall provide the framework for mapping and inventorying the State's extensive coastal and riverine resources, to include the land areas within the coastal zone; the ocean and estuarine shore zones; and sub-aquatic bathymetry; sediments; and vegetation. This framework shall include at least all of the following:

(1) A field survey and inventory of the geologic and ecologic character of the entire shoreline system and maps that indicate the detailed distribution of shoreline types.

(2) A field survey, inventory, and maps that indicate distribution of the anthropogenic modifications of the entire shoreline system, such as any hardened shoreline structures, piers, marinas, or channels.

(3) For each five-year period, a periodic coastal land survey that incorporates high resolution, geo-referenced, infrared aerial photography, and LiDAR topography of the entire coastal zone in order to monitor absolute changes in shorelines, ecosystems, and land use.

(4) A bathymetric survey of the inland coastal waters that can be utilized for detailed modeling of estuarine storm surge, water quality, and sea-level rise, as well as supplying critical data for modeling shoreline erosion, distribution of submerged aquatic vegetation, and ecosystem migration.

(5) The framework for establishing various types of permanent monitoring stations within the State's coastal zone, which shall include at least all of the following monitoring stations:

a. A system of estuarine and riverine stations to measure absolute changes in sea-level rise, characterize the dynamics of storm surges and tides, and monitor water flow and quality through the coastal system.

b. A series of land-based sites in different ecosystems to monitor ecological change of habitats through time, including growth rates, structure and function, freshwater resources, saltwater intrusion, sedimentation and erosion rates, and any other changes.

c. Define the critical sediment sources and their depositional sinks within the State's riverine, estuarine, and barrier island systems.

d. Develop realistic sediment budgets and monitors for sediment transport directions and rates.

SECTION 1.(b) The Department of Environment and Natural Resources shall make the information collected under CARMAP, as established under this section, available to the general public on the Internet.

SECTION 1.(c) There is appropriated from the General Fund to the Department of Environment and Natural Resources the sum of five hundred thousand dollars ($500,000) for the 2010-2011 fiscal year to fund CARMAP, as established under this section.

SECTION 2.(a) There is appropriated from the General Fund to the State Climate Office the sum of five hundred thousand dollars ($500,000) for the 2010-2011 fiscal year to expand the North Carolina Environment and Climate Observing Network (ECONet), a program supported by the State Climate Office, the Department of Environment and Natural Resources, the Department of Crime Control and Public Safety, and North Carolina State University, in cooperation with federal agencies, for the purpose of providing a database that may be used to improve severe weather management, weather forecasts, energy planning, and natural resource management, as well as assisting agriculture, emergency response, natural resource management, tourism, economic development, education, and other applications that affect North Carolina's citizens.

SECTION 2.(b) The funds appropriated under this section shall be used to locate automated weather and environmental observing stations to counties that do not currently have such stations, thereby expanding ECONet and moving toward the ultimate goal of locating at least one weather and environmental observing station in each county in North Carolina. Data from these stations shall be provided to government agencies to improve severe weather management, weather forecasts, energy planning, and natural resource management and shall be made available to the general public on the Internet.

SECTION 3. This act becomes effective July 1, 2010.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1805*
PROPOSED COMMITTEE SUBSTITUTE H1805-CSTA-39 [v.1]

5/24/2010 1:49:22 PM

Short Title: Funds to Assess/Monitor NC Climate Change. (Public)

Sponsors:

Referred to:

May 19, 2010

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS (1) TO ESTABLISH THE COASTAL ADAPTATION RESOURCES MAPPING AND MONITORING PROGRAM AND (2) TO EXPAND THE NORTH CAROLINA ENVIRONMENT AND CLIMATE OBSERVING NETWORK; IN ORDER TO PROVIDE FOR MONITORING OF THE ENVIRONMENTAL IMPACTS OF GLOBAL CLIMATE CHANGE IN NORTH CAROLINA AND FOR IMPROVING WEATHER AND CLIMATE DATA COLLECTION IN NORTH CAROLINA, AS RECOMMENDED BY THE LEGISLATIVE COMMISSION ON GLOBAL CLIMATE CHANGE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Coastal Adaptation Resources Mapping and Monitoring Program (CARMAP) is established within the Department of Environment and Natural Resources. This program shall be a cooperative program that utilizes the resources within the Department and the constituent universities within The University of North Carolina. This program shall provide the framework for mapping and inventorying the State's extensive coastal and riverine resources to include: the land areas within the coastal zone; the ocean and estuarine shore zones; sub-aquatic bathymetry; sediments; and vegetation. This framework shall include at least all of the following:

(1) A field survey and inventory of the geologic and ecologic character of the entire shoreline system and maps that indicate the detailed distribution of shoreline types.

(2) A field survey, inventory, and maps that indicate distribution of the anthropogenic modifications of the entire shoreline system, such as any hardened shoreline structures, piers, marinas, or channels.

(3) For each five-year period, a periodic coastal land survey that incorporates high resolution, geo-referenced, infrared aerial photography, and LiDAR topography of the entire coastal zone in order to monitor absolute changes in shorelines, ecosystems, and land use.

(4) A bathymetric survey of the inland coastal waters that can be utilized for detailed modeling of estuarine storm surge, water quality, and sea-level rise, as well as supplying critical data for modeling shoreline erosion, distribution of submerged aquatic vegetation, and ecosystem migration.

(5) The framework for establishing various types of permanent monitoring stations within the State's coastal zone, which shall include at least all of the following monitoring stations:

a. A system of estuarine and riverine stations to measure absolute changes in sea-level rise, characterize the dynamics of storm surges and tides, and monitor water flow and quality through the coastal system.

b. A series of land-based sites in different ecosystems to monitor ecological change of habitats through time, including growth rates, structure and function, freshwater resources, saltwater intrusion, sedimentation and erosion rates, and any other changes.

c. Define the critical sediment sources and their depositional sinks within the State's riverine, estuarine, and barrier island systems.

d. Develop accurate sediment budgets and monitors for sediment transport directions and rates.

SECTION 1.(b) The Department of Environment and Natural Resources shall make the information collected under CARMAP, as established under this section, available to the general public on the Internet.

SECTION 1.(c) There is appropriated from the General Fund to the Department of Environment and Natural Resources the sum of five hundred thousand dollars ($500,000) for the 2010-2011 fiscal year to fund CARMAP, as established under this section.

SECTION 2.(a) There is appropriated from the General Fund to the State Climate Office the sum of five hundred thousand dollars ($500,000) for the 2010-2011 fiscal year to expand the North Carolina Environment and Climate Observing Network (ECONet), a program supported by the State Climate Office, the Department of Environment and Natural Resources, the Department of Crime Control and Public Safety, and North Carolina State University, in cooperation with federal agencies, for the purpose of providing a database that may be used to improve severe weather management, weather forecasts, energy planning, and natural resource management, as well as assisting agriculture, emergency response, natural resource management, tourism, economic development, education, and other applications that affect North Carolina's citizens.

SECTION 2.(b) The funds appropriated under this section shall be used to locate automated weather and environmental observing stations in counties that do not currently have such stations, thereby expanding ECONet and moving toward the ultimate goal of locating at least one weather and environmental observing station in each county in North Carolina. Data from these stations shall be provided to government agencies to improve severe weather management, weather forecasts, energy planning, and natural resource management and shall be made available to the general public on the Internet.

SECTION 3. This act becomes effective July 1, 2010.

HOUSE BILL 1805:
Funds to Assess/Monitor NC Climate Change

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Appropriations	**Date:**	May 25, 2010
Introduced by:	Reps. Harrison, Underhill, Wilkins	**Prepared by:**	Jennifer Mundt Legislative Analyst
Analysis of:	PCS to First Edition H1805-CSTA-39		

SUMMARY: House Bill 1805 would appropriate funds to (1) establish the Coastal Adaptation Resources Mapping and Monitoring Program and (2) expand the North Carolina Environment and Climate Observing Network; in order to provide for monitoring of the environmental impacts of global climate change and to improve weather and climate data collection in North Carolina.

House Bill 1805 is a recommendation of the Legislative Commission on Global Climate Change.

[As introduced, this bill was identical to S1222, as introduced by Sen. Stein, which is currently in Senate Appropriations/Base Budget.]

BILL ANALYSIS:

Section 1 would appropriate $500,000 from the General Fund to the Department of Environment and Natural Resources (DENR) for the 2010-2011 fiscal year to establish the Coastal Adaptation Resources Mapping and Monitoring Program (CARMAP) within DENR. CARMAP would be a cooperative program that utilizes the resources within DENR and the constituent universities of The University of North Carolina. CARMAP would provide the framework for mapping and inventorying the State's coastal and riverine resources including areas within the coastal zone, the ocean and estuarine shore zones, sub-aquatic bathymetry, sediments, and vegetation. At a minimum, the framework would include:

- A field survey and inventory of the geologic and ecologic character of the entire shoreline system and maps that indicate the detailed distribution of shoreline types.
- A field survey, inventory, and maps that indicate distribution of the anthropogenic modifications of the entire shoreline system.
- For each five-year period, a periodic coastal land survey of the entire coastal zone in order to monitor absolute changes in shorelines, ecosystems, and land use.
- A bathymetric survey of the inland coastal waters.
- The framework for establishing various types of permanent monitoring stations within the State's coastal zone including the following:
  - A system of estuarine and riverine stations to measure absolute changes in sea-level rise, characterize the dynamics of storm surges and tides, and monitor water flow and quality through the coastal system.
  - A series of land-based sites in different ecosystems to monitor ecological change of habitats through time, including growth rates, structure and function, freshwater resources, saltwater intrusion, sedimentation and erosion rates, and any other changes.

- Define the critical sediment sources and their depositional sinks within the State's riverine, estuarine, and barrier island systems.
- Develop accurate sediment budgets and monitors for sediment transport directions and rates.

DENR would be required to make the information collected under CARMAP available to the general public on the Internet.

Section 2 would appropriate $500,000 from the General Fund to the State Climate Office for the 2010-2011 fiscal year to expand the North Carolina Environment and Climate Observing Network (ECONet). The appropriation would be used to locate automated weather and environmental observing stations in counties that do not currently have such stations. Data from these stations would be provided to government agencies in order to improve severe weather management, weather forecasts, energy planning, and natural resource management and would also be made available to the public on the Internet.

EFFECTIVE DATE: This act would become effective July 1, 2010.

BACKGROUND[1]**:** The State Climate Office, in cooperation with State and federal agencies, initiated development of NC ECONet in order to improve local weather information and forecasts and to create a database for future research. When fully implemented, the NC ECONet will have at least one automated weather station in each county in North Carolina and the State Climate Office has placed development of the NC ECONet as the top priority for weather and climate services.

The proposed NC ECONet would be a state-of-the-art network of more than 100 weather and environmental observing stations across North Carolina. Current stations operated by the Climate Office are funded by the Agricultural Research Service of the United States Department of Agriculture, the Division of Air Quality of the Department of Environment and Natural Resources, and the Division of Emergency Management in the Department of Crime Control and Public Safety. To complete the network, NC ECONet plans to establish observation stations in counties that do not currently have a monitoring station. The NC ECONet will assist in agriculture, emergency response, natural resource management, tourism, economic development, education, and many other applications that affect the day-to-day lives of North Carolina's citizens.

H1805-SMTA-86(CSTA-39) v2

[1] From The State Climate Office of North Carolina NC ECONet website: http://www.nc-climate.ncsu.edu/econet

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — May 25, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Goodman	NC Chamber
Tom Bean	NCEDF, NCSEA, NCWF
Sharon Miller	CUCA
David Crawford	AIANC
Andrew Lynch	NCLM
Dan Conrad	NCCN
Milissa Abrams	NCCN
David Pearson	Friends of State Parks
Jessica Pearson	Friends of State Parks
Kristen Pearson	Friends of State Parks
Julia Janaro	US Green Building Council Charlotte, Triangle, Kanawha Valley Chapters.

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — May 25, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jennifer Fitts	CWMTF
LISA RIEGEL	NHTF
Tom Cors	TNC
Ryan Elting	TNC
Janie Hausser	DENR
Tom Coley	CWA
Lorea Stallard	Rep. Ross' Intern
Scott Liberman	Rep Harrison's intern
Robin Smith	DENR
Elizabeth Bise	DENR
Carl Mackerson	Sierra Club

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — May 25, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Margaret Hoffzell	Environment North Carolina
Drew Ball	NC Sierra Club
R. Rogers	CWMTF
Sage Boyd	intern
Peter Gallo	Homesight Appraisal
Rick Zechini	NC Assn of Realtors
BRUCE THOMPSON	PARKER POE
Donald Shaheen	N.C. Assn. Regional Councils
JOHN SHAW	CAPITOL GROUP, SIERRA CLUB
Steve Wall	Biofuels Center
Mich Wall	NCRLA

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — May 25, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mark Beason	NC Water Rights Committee
Michael Thompson	Dominion
AMY SIMES	DENR
Molly Diggins	Sierra Club
DAVID BARNES	Pegasus Spirit V
Kate Dixon	Friends of Mtns to Sea Trail

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — May 25, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Andy Ellen	NCPWA
Thomas Moore	Ellis Wohl
Lisa Piercy	Ragsdale Liggett PLLC
John McAlister	NC Chamber
Cody Thomas	NCAR

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — May 25, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lisa Martin	NC Home Builders
George Everett	Duke Energy
Scott Galanon	" "
Preston Howard	MCIC
RW Kayla	Kayla Law Firm
Bo Sowers	Duke Energy
Jenin Owen	Duke Univ.
[illegible]	H&W
Judy Kidd	CTANC Charlotte
DHP	[illegible]
Nick Tosco	NC LM

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — May 25, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jamie Harrison	aide to Rep. Luebke
[illegible]	[illegible]
Julie Jinnette	NC APA
Ben Hitchings	NC APA
JOHN HODGES-COPPLE	Triangle J Council of Governments
Weatherly Rose	Hunton + Williams
Kim Crouch	North Carolina Pork Council
John Mark	NC Dept. of Commerce
Gloria Nance-Sims	NC Dept of Commerce, Div. Commun Aff
Amy Morsch	Nicholas Institute
Kimberlee Rankin	Sierra Club

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — May 25, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Peter Griggs	CCNC
Peter Gehred	CCNC
Caroline Wilmer	Intern, Rep. Avila
Dan McLawhorn	Raleigh
John Noor	Raleigh
Vernon Cox	NCDA&CS
Sam Watson	NCWC
Gary Harris	NCPCM
Cameron Hurley	ElectriCities of NC
David Zabriskie	Garmin / Slipstream
Wendy Kelly	Policy Group
L. Andrews	NCFB
Jim Blackburn	County Commissioners Assoc

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — May 25, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tommy Stevens	NCPC
Angie whitener	NCPC
Jim Johnson	BSA
Heather Ramsey	MCRMA
Jim Harding	NCPC/Cathedral
Bill Rowe	NC Justice Center
John Monaghan	Piedmont Natural Gas
Will Culpepper	MVA
Kathy Hawkins	Progress Energy
W. Dudley Culpepper III	Personal Interest
Doug Lassiter	NCSTA

ENVIROMENT AND NATURAL RESOURCES

HOUSE PAGES

NAME OF COMMITTEE _____ DATE MAY 25, 2010

1. Name: Victoria Pait
   County: Bladen
   Sponsor: William Brisson
2. Name: Kathryn Horrell
   County: Harnett
   Sponsor: Lewis
3. Name: Cody Bentes
   County: Moore
   Sponsor: Hackney
4. Name: Erika Atkins
   County: Surry
   Sponsor: Stevens
5. Name: Sedrick Belk Belk
   County: Richmond County
   Sponsor: Hackney

SGT-AT-ARM

1. Name: FRED HINES DAVID SHEARON
2. Name: CARLTON ADAMS
3. Name: EARL COKER
4. Name: FRANK PREVO

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

JUNE 1, 2010

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Tuesday, June 1, 2010, in room 643 of the Legislative Office Building. Representative Alice Underhill presided. Members present were: Representatives Gillespie, Harrison, Justice, and Tarleton, Vice-Chairs; Representatives K. Alexander, Blackwood, Floyd, Gibson, Haire, Insko, Luebke, Martin, May, McElraft, Samuelson, Tucker, West, and Womble.

Representative Underhill called the meeting to order at 12:05 p.m. She began by introducing the pages for the day and the sergeant-at-arms staff assigned to the meeting (list attached).

The first item on the agenda was House Bill 1801 - A BILL TO BE ENTITLED AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO VARIOUS LAWS RELATED TO THE ENVIRONMENT, ENERGY, AND NATURAL RESOURCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION. Representative Gibson was recognized to present the bill. A proposed committee substitute was distributed and Representative Tarleton made a motion that it be placed before the committee for consideration. Jennifer Mundt, Committee Analyst explained the PCS. Representative Tucker made a motion for a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be referred to the Committee on State Government/State Personnel. This motion received unanimous approval from the committee members.

Next on the agenda was HB 1802 - A BILL TO BE ENTITLED AN ACT TO AMEND OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES REPORTING REQUIREMENTS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION. The bill was presented to the committee by Representative Gibson. A proposed committee substitute was placed before the members upon a motion by Representative Justice. Jennifer Mundt, Committee Analyst, was called upon to explain the PCS. Following a discussion by members, Representative Tarleton made a motion for a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be referred to the Committee on State Government/State Personnel. This motion received unanimous approval.

Representative Gibson was recognized to present HB 1765 - A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO USE INJUNCTIVE RELIEF TO ENSURE COMPLIANCE WITH INTERBASIN TRANSFER LAWS AND TO PROVIDE THAT AN APPLICANT FOR AN INTERBASIN TRANSFER CERTIFICATE SHALL PAY THE COSTS ASSOCIATED WITH ALL REQUIRED PUBLIC HEARINGS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION. Representative Gibson moved that a proposed committee substitute for HB 1765 be placed before the committee for consideration. Jeff Hudson, Committee Counsel was called upon to explain the PCS. After a brief discussion of the bill, it was suggested that no vote be taken at this meeting, but that the bill be brought before the committee at the next meeting. Representative Gibson found this agreeable, so the PCS to HB 1765 was tabled.

With no further business to come before the committee, the meeting was adjourned at 12:50 p.m.

Respectfully submitted,

Representative Alice Underhill, Chair

Shara Graham, Committee Assistant

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE MEETING

June 1, 2010
12:00 NOON
Room 643 LOB

Representative Alice Underhill, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

HB 1765 - Amend IBT Enforcement and Notice
Primary Sponsors: Reps. Gibson, Harrison

HB 1801 - Environmental Technical Corrections 2010
Primary Sponsors: Reps. Harrison, Gibson, Tarleton, Underhill

HB 1802 - ENR Reports Consolidation 2010
Primary Sponsors: Reps. Harrison, Gibson, Tarleton, Underhill

ADJOURNMENT

H 1

HOUSE BILL 1801*

Short Title:	Environmental Technical Corrections 2010.	(Public)
Sponsors:	Representatives Harrison, Gibson, Tarleton, Underhill (Primary Sponsors); Dockham and Gill.	
Referred to:	Environment and Natural Resources, if favorable, State Government/State Personnel.	

May 19, 2010

A BILL TO BE ENTITLED

AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO VARIOUS LAWS RELATED TO THE ENVIRONMENT, ENERGY, AND NATURAL RESOURCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 114-4.2D reads as rewritten:

"**§ 114-4.2D. Employment of attorney for Energy Policy Council and Energy Efficiency Program of the Department of ~~Administration~~ Commerce.**

The Attorney General shall assign an attorney on his staff to work full time with the Energy Policy Council and Energy Efficiency Program of the Department of ~~Administration~~ Commerce. Such attorney shall be subject to all provisions of Chapter 126 of the General Statutes relating to the State Personnel System. Such attorney shall also perform such additional duties as may be assigned to him by the Attorney General."

SECTION 2. The catch line of Article 19 of Chapter 120 of the General Statutes reads as rewritten:

"Article 19.

~~Commission on~~ Agriculture and Forestry Awareness Study Commission."

SECTION 3. G.S. 120-150 reads as rewritten:

"**§ 120-150. Creation; appointment of members.**

There is created an Agriculture and Forestry Awareness Study Commission. Members of the Commission shall be citizens of North Carolina who are interested in the vitality of the agriculture and forestry sectors of the State's economy. Members shall be as follows:

(1) Three appointed by the ~~Governor;~~Governor.
(2) Three appointed by the President Pro Tempore of the ~~Senate;~~Senate.
(3) Three appointed by the Speaker of the ~~House;~~House.
(4) The ~~chairman~~ chair of the House Agriculture ~~Committee;~~Committee.
(5) The ~~chairman~~ chair of the Senate ~~Agriculture Committee;~~Committee on Agriculture, Environment, and Natural Resources.
(6) The Commissioner of Agriculture or the Commissioner's ~~designee;~~designee.
(7) A member of the Board of Agriculture designated by the ~~chairman~~ chair of the Board of ~~Agriculture;~~Agriculture.
(8) The President of the North Carolina Farm Bureau Federation, Inc., or the President's ~~designee;~~designee.

(9) The ~~Master~~ President of the North Carolina State Grange or the ~~Master's~~ President's ~~designee;~~designee.

(10) The Secretary of Environment and Natural Resources or the Secretary's ~~designee; and~~designee.

(11) The President of the North Carolina Forestry Association, Inc., or the President's designee.

Members shall be appointed for two-year terms beginning October 1 of each odd-numbered year. The Chair of the House Agriculture Committee and the Chair of the Senate Committee on Agriculture, Environment, and Natural Resources shall serve as cochairs. ~~The cochairmen of the Commission shall be the chairmen of the Senate and House Agriculture Committees respectively.~~"

SECTION 4. G.S. 130A-309.10(l) reads as rewritten:

"(l) Oyster shells that are delivered to a landfill shall be stored at the landfill for at least 90 days or until they are removed for recycling. If oyster shells that are stored at a landfill are not removed for recycling within 90 days of delivery to the landfill, then, notwithstanding subdivision ~~(12)~~ (13) of subsection (f) of this section, the oyster shells may be disposed of in the landfill."

SECTION 5. G.S. 130A-309.12(b) reads as rewritten:

"(b) The Solid Waste Management Trust Fund shall consist of the following:

(1) Funds appropriated by the General Assembly.

(2) Contributions and grants from public or private sources.

(3) ~~Five percent (5%)~~Eight percent (8%) of the proceeds of the scrap tire disposal tax imposed under Article 5B of Chapter 105 of the General Statutes.

(4) Eight percent (8%) of the proceeds of the white goods disposal tax imposed under Article 5C of Chapter 105 of the General Statutes.

(5) Twelve and one-half percent (12.5%) of the proceeds of the solid waste disposal tax imposed under Article 5G of Chapter 105 of the General Statutes."

SECTION 6. G.S. 130A-310.11(b) reads as rewritten:

"(b) Funds credited to the Inactive Hazardous Sites Cleanup Fund pursuant to G.S. 130A-295.9 shall be used only as provided in G.S. 130A-295.9(1) and ~~G.S. 130A-310.5(c).~~ G.S. 130A-310.6(c)."

SECTION 7. G.S. 143-355.4(b) reads as rewritten:

"(b) To be eligible for State water infrastructure funds from the Drinking Water State Revolving Fund or the Drinking Water Reserve ~~Fund~~ or any other grant or loan of funds allocated by the General Assembly whether the allocation of funds is to a State agency or to a nonprofit organization for the purpose of extending waterlines or expanding water treatment capacity, a local government or large community water system must demonstrate that the system:

..."

SECTION 8. G.S. 153B-2 reads as rewritten:

"**§ 153B-2. Definitions.**

The following definitions apply in this ~~Article:~~Chapter:

(1) Commission. – The Mountain Resources Commission created by this Chapter.

(2) Council. – The Mountain Area Resources Technical Advisory Council.

(3) Important mountain resources. – The natural and cultural resources of the mountain region of Western North Carolina, including, but not limited to, State and federal public lands, wildlife habitat, farms, forestland and rural

landscapes, mountain vistas, mountain streams and rivers, mountain lakes, and historical and archeological resources.

(4) Mountain region of Western North Carolina. – The area encompassed by the counties of Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Cleveland, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Surry, Swain, Transylvania, Watauga, Wilkes, Yadkin, and Yancey in the State.

(5) Secretary. – The Secretary of ~~the Department of~~ Environment and Natural Resources."

SECTION 9. G.S. 153B-3(d) reads as rewritten:

"(d) Membership. – The Commission shall consist of 17 members as follows:

...

(d1) Officers; Terms. – The members of the Commission shall elect a chair, vice-chair, and any other officers they consider necessary and shall determine the length of the term of office, not to exceed two years, of each officer. A majority of the Commission shall constitute a quorum. Each member appointed to the Commission shall be appointed to serve a four-year term. Any vacancy on the Commission shall be filled by the original appointing authority for the remainder of the unexpired term. Initial terms commence September 1, 2009."

SECTION 10. G.S. 153B-4 reads as rewritten:

"**§ 153B-4. Mountain Area Resources Technical Advisory Council.**

...

(d) Members; Multiple Offices. – Membership on the ~~Mountain Area Resources Technical Advisory~~ Council is hereby declared to be an office that may be held concurrently with other elective or appointive offices (except the office of Commission member) in addition to the maximum number of offices permitted to be held by one person under G.S. 128-1.1.

(e) ~~Chairman~~ Chair and Vice ~~Chairman~~ Chair. – A ~~chairman~~ chair and vice ~~chairman~~ chair shall be elected annually by the Council.

(f) Compensation. – The members of the ~~Advisory~~ Council who are not State employees may receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5. All expenses shall be paid from funds available to the Commission through the Mountain Area Resources Fund, but no expenses shall be paid if the Mountain Area Resources Fund lacks the necessary funds."

SECTION 11. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1801*
PROPOSED COMMITTEE SUBSTITUTE H1801-PCS11128-TF-2

Short Title: Environmental Technical Corrections 2010. (Public)

Sponsors:

Referred to:

May 19, 2010

A BILL TO BE ENTITLED

AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO VARIOUS LAWS RELATED TO THE ENVIRONMENT, ENERGY, AND NATURAL RESOURCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 114-4.2D reads as rewritten:

"**§ 114-4.2D. Employment of attorney for Energy Policy Council and Energy Efficiency Program of the Department of ~~Administration~~ Commerce.**

The Attorney General shall assign an attorney ~~on his staff~~ to work full time with the Energy Policy Council and Energy Efficiency Program of the Department of ~~Administration~~ Commerce. Such attorney shall be subject to all provisions of Chapter 126 of the General Statutes relating to the State Personnel System. Such attorney shall also perform such additional duties as may be assigned ~~to him~~ by the Attorney General."

SECTION 2. The title of Article 19 of Chapter 120 of the General Statutes reads as rewritten:

"Article 19.

~~Commission on~~ Agriculture and Forestry Awareness Study Commission."

SECTION 3. G.S. 120-150 reads as rewritten:

"**§ 120-150. Creation; appointment of members.**

There is created an Agriculture and Forestry Awareness Study Commission. Members of the Commission shall be citizens of North Carolina who are interested in the vitality of the agriculture and forestry sectors of the State's economy. Members shall be as follows:

(1) Three appointed by the ~~Governor;~~Governor.
(2) Three appointed by the President Pro Tempore of the ~~Senate;~~Senate.
(3) Three appointed by the Speaker of the ~~House;~~House.
(4) The ~~chairman~~chairs of the House Agriculture ~~Committee;~~Committee.
(5) The ~~chairman~~chairs of the Senate ~~Agriculture Committee;~~Committee on Agriculture, Environment, and Natural Resources.
(6) The Commissioner of Agriculture or the Commissioner's ~~designee;~~designee.
(7) A member of the Board of Agriculture designated by the ~~chairman~~chair of the Board of ~~Agriculture;~~Agriculture.
(8) The President of the North Carolina Farm Bureau Federation, Inc., or the President's ~~designee;~~designee.

(9) The ~~Master~~ President of the North Carolina State Grange or the ~~Master's~~ President's ~~designee;~~designee.

(10) The Secretary of Environment and Natural Resources or the Secretary's ~~designee; and~~designee.

(11) The President of the North Carolina Forestry Association, Inc., or the President's designee.

Members shall be appointed for two-year terms beginning October 1 of each odd-numbered year. The Chairs of the House Agriculture Committee and the Chairs of the Senate Committee on Agriculture, Environment, and Natural Resources shall serve as cochairs. ~~The cochairmen of the Commission shall be the chairmen of the Senate and House Agriculture Committees respectively.~~"

SECTION 4. G.S. 130A-309.10(l) reads as rewritten:

"(l) Oyster shells that are delivered to a landfill shall be stored at the landfill for at least 90 days or until they are removed for recycling. If oyster shells that are stored at a landfill are not removed for recycling within 90 days of delivery to the landfill, then, notwithstanding subdivision ~~(12)~~(13) of subsection (f) of this section, the oyster shells may be disposed of in the landfill."

SECTION 5. G.S. 130A-309.12(b) reads as rewritten:

"(b) The Solid Waste Management Trust Fund shall consist of the following:

(1) Funds appropriated by the General Assembly.

(2) Contributions and grants from public or private sources.

(3) ~~Five percent (5%)~~Eight percent (8%) of the proceeds of the scrap tire disposal tax imposed under Article 5B of Chapter 105 of the General Statutes.

(4) Eight percent (8%) of the proceeds of the white goods disposal tax imposed under Article 5C of Chapter 105 of the General Statutes.

(5) Twelve and one-half percent (12.5%) of the proceeds of the solid waste disposal tax imposed under Article 5G of Chapter 105 of the General Statutes."

SECTION 6. G.S. 130A-310.11(b) reads as rewritten:

"(b) Funds credited to the Inactive Hazardous Sites Cleanup Fund pursuant to G.S. 130A-295.9 shall be used only as provided in G.S. 130A-295.9(1) and ~~G.S. 130A-310.5(c).~~G.S. 130A-310.6(c)."

SECTION 7. G.S. 143-355.4(b) reads as rewritten:

"(b) To be eligible for State water infrastructure funds from the Drinking Water State Revolving Fund or the Drinking Water Reserve ~~Fund~~ or any other grant or loan of funds allocated by the General Assembly whether the allocation of funds is to a State agency or to a nonprofit organization for the purpose of extending waterlines or expanding water treatment capacity, a local government or large community water system must demonstrate that the system:

...."

SECTION 8. G.S. 153B-2 reads as rewritten:

"**§ 153B-2. Definitions.**

The following definitions apply in this ~~Article:~~Chapter:

(1) Commission. – The Mountain Resources Commission created by this Chapter.

(2) Council. – The Mountain Area Resources Technical Advisory Council.

(3) Important mountain resources. – The natural and cultural resources of the mountain region of Western North Carolina, including, but not limited to, State and federal public lands, wildlife habitat, farms, forestland and rural

landscapes, mountain vistas, mountain streams and rivers, mountain lakes, and historical and archeological resources.

(4) Mountain region of Western North Carolina. – The area encompassed by the counties of Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Cleveland, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Surry, Swain, Transylvania, Watauga, Wilkes, Yadkin, and Yancey in the State.

(5) Secretary. – The Secretary of ~~the Department of~~ Environment and Natural Resources."

SECTION 9. G.S. 153B-3(d) reads as rewritten:

"(d) Membership. – The Commission shall consist of 17 members as follows:

...

(d1) Officers; Terms. – The members of the Commission shall elect a chair, vice-chair, and any other officers they consider necessary and shall determine the length of the term of office, not to exceed two years, of each officer. A majority of the Commission shall constitute a quorum. Each member appointed to the Commission shall be appointed to serve a four-year term. Any vacancy on the Commission shall be filled by the original appointing authority for the remainder of the unexpired term. Initial terms commence September 1, 2009."

SECTION 10. G.S. 153B-4 reads as rewritten:

"**§ 153B-4. Mountain Area Resources Technical Advisory Council.**

...

(d) Members; Multiple Offices. – Membership on the ~~Mountain Area Resources Technical Advisory~~ Council is hereby declared to be an office that may be held concurrently with other elective or appointive offices (except the office of Commission member) in addition to the maximum number of offices permitted to be held by one person under G.S. 128-1.1.

(e) ~~Chairman~~ Chair and Vice ~~Chairman~~Chair. – A ~~chairman~~chair and vice ~~chairman~~ chair shall be elected annually by the Council.

(f) Compensation. – The members of the ~~Advisory~~ Council who are not State employees may receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5. All expenses shall be paid from funds available to the Commission through the Mountain Area Resources Fund, but no expenses shall be paid if the Mountain Area Resources Fund lacks the necessary funds."

SECTION 11. Section 3(d) of S.L. 2005-190 reads as rewritten:

"**SECTION 3.(d) Eligibility under the Clean Water Revolving Loan and Grant Act.** – The definitions set out in G.S. 159G-3 apply to this subsection. The operator of a wastewater treatment works that is owned by an agency of the State may apply for a loan or grant under ~~Chapter 159G of the General Statutes~~G.S. 159G-20 on the same basis as any other applicant if the operator is a local government unit and if the local government unit operates the wastewater treatment works pursuant to a contract with the State agency that contemplates that the local government unit will eventually acquire ownership of the wastewater treatment works."

SECTION 12. This act is effective when it becomes law.

HOUSE BILL 1801:
Environmental Technical Corrections 2010

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, State Government/State Personnel	**Date:**	June 1, 2010
Introduced by:	Reps. Harrison, Gibson, Tarleton, Underhill	**Prepared by:**	Mariah Matheson Research Assistant
Analysis of:	PCS to the First Edition (H1801-CSTF-2 [v.3])		

SUMMARY: House Bill 1801 would make clarifying, conforming, and technical amendments to various laws related to the environment, energy, and natural resources, as recommended by the Environmental Review Commission.

[As introduced, this bill was identical to S1162, as introduced by Sen. Hartsell, which is currently in Senate Agriculture/Environment/Natural Resources.]

BILL ANALYSIS: House Bill 1801 would make the following technical amendments:

Section 1 would make conforming amendments to G.S. 114-4.2D to change the Department of Administration to the Department of Commerce and use gender neutral language. In 2009, the General Assembly transferred the Energy Policy Council and the Energy Efficiency Program from the Department of Administration to the Department of Commerce.

Section 2 would amend the catch line of Article 19 of Chapter 120 of the General Statutes to read the "Agriculture and Forestry Awareness Study Commission."

Section 3 would amend G.S. 120-150 to use gender-neutral language and correctly name the listed committees.

Section 4 would amend an incorrect cross reference in G.S. 130A-309.10(1).

Section 5 would amend statutes regarding the Solid Waste Management Trust funds to conform with changes made in S.L. 2007-153 and S.L. 2007-550.

Section 6 would amend an incorrect statutory reference in G.S. 130A-310.11(b).

Section 7 would amend G.S. 143-355.4(b) to correctly name the listed funds.

Section 8 would make technical and conforming changes in G.S. 153B-2.

Section 9 would make technical and conforming changes in G.S. 153B-3(d).

Section 10 would amend G.S. 153B-4 to include gender-neutral language and make conforming changes.

PCS: The Proposed Committee Substitute for House Bill 1801 adds a new **Section 11**, which would correct a cross reference in Section 3.(d) of S.L. 2005-190.

EFFECTIVE DATE: This act would be effective when it becomes law.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representatives Underhill, Harrison, and Tarleton (Vice-Chairs) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

HB 1801 A BILL TO BE ENTITLED AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO VARIOUS LAWS RELATED TO THE ENVIRONMENT, ENERGY, AND NATURAL RESOURCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on STATE GOVERNMENT/STATE PERSONNEL.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ___) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

HOUSE BILL 1802*

Short Title:	ENR Reports Consolidation 2010.	(Public)
Sponsors:	Representatives Harrison, Gibson, Tarleton, Underhill (Primary Sponsors); Carney, Faison, Gill, Goforth, and Hughes.	
Referred to:	Environment and Natural Resources, if favorable, State Government/State Personnel.	

May 19, 2010

A BILL TO BE ENTITLED

AN ACT TO AMEND OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES REPORTING REQUIREMENTS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-309.06(c)(13) is repealed.

SECTION 2. G.S. 130A-310.57 reads as rewritten:

"**§ 130A-310.57. (Effective until December 31, 2017) Reports.**

The Department shall submit an annual report on the mercury switch removal program under this Part to the Environmental Review ~~Commission~~ Commission, ~~and~~ the Senate and House of Representatives Appropriations Subcommittees on Natural and Economic ~~Resources~~Resources, and the Fiscal Research Division of the General Assembly on or before 1, October of each year. The report shall include, at a minimum, all of the following:

(1) A detailed description of the mercury recovery performance ratio achieved by the mercury switch removal program.

(1a) A detailed description of the mercury switch collection system developed and implemented by vehicle manufacturers in accordance with the NVMSRP.

(2) In the event that a mercury recovery performance ratio of at least 0.90 of the national mercury recovery performance ratio as reported by the NVMSRP is not achieved, a description of additional or alternative actions that may be implemented to improve the mercury switch removal program.

(3) The number of mercury switches collected and a description of how the mercury switches were managed.

(4) A statement that details the costs required to implement the mercury switch removal program including a summary of receipts and disbursements from the Mercury Switch Removal Account."

SECTION 3. G.S. 143-214.13 reads as rewritten:

"**§ 143-214.13. Ecosystem Enhancement Program: reporting requirement.**

(a) The Department of Environment and Natural Resources shall report each year by November 1 to the Environmental Review Commission and to the Joint Legislative Commission on Governmental Operations regarding its progress in implementing the Ecosystem Enhancement Program and its use of the funds in the Ecosystem Restoration Fund. The report shall document statewide wetlands losses and gains and compensatory mitigation performed under G.S. 143-214.8 through G.S. 143-214.12. The report shall also provide an

accounting of receipts and disbursements of the Ecosystem Restoration Fund, an analysis of the per-acre cost of wetlands restoration, and a cost comparison on a per-acre basis between the State's Ecosystem Enhancement Program and private mitigation banks. The Department shall also send a copy of its report to the Fiscal Research Division of the General Assembly.

(b) The Department shall maintain an inventory of all property that is held, managed, maintained, enhanced, restored, or used to create wetlands under the Ecosystem Enhancement Program. The inventory shall also list all conservation easements held by the Department. The inventory shall be included in the annual report required under subsection (a) of this section."

SECTION 4. G.S. 143B-336.1 reads as rewritten:

"**§ 143B-336.1. Special Zoo Fund.**

A special continuing and nonreverting fund, to be called the Special Zoo Fund, is created. The North Carolina Zoological Park shall retain unbudgeted receipts at the end of each fiscal year, beginning June 30, 1989, and deposit these receipts into this Fund. This Fund shall be used for maintenance, repairs, and renovations of exhibits in existing habitat clusters and visitor services facilities, construction of visitor services facilities and support facilities such as greenhouses and temporary animal holding areas, for the replacement of tram equipment as required to maintain adequate service to the public, and for marketing the Zoological Park. The Special Zoo Fund may also be used to match private funds that are raised for these purposes. Funds may be expended for these purposes by the Department of Environment and Natural Resources on the advice of the North Carolina Zoological Park Council and with the approval of the Office of State Budget and Management. The Department of Environment and Natural Resources shall provide ~~an annual~~ a report on or before October 1 of each year to the Office of State Budget and ~~Management~~ Management, ~~and to~~ the Fiscal Research Division of the ~~Legislative Services Office~~ General Assembly, and to the Joint Legislative Commission on Governmental Operations on the use of fees collected pursuant to this section."

SECTION 5. G.S. 143B-344.21 reads as rewritten:

"**§ 143B-344.21. Reports to General Assembly.**

The Commission shall prepare and submit a report outlining the needs of the North Carolina State Museum of Natural Sciences and recommendations for improvement of the effectiveness of the North Carolina State Museum of Natural Sciences for the purpose hereinabove set forth to the 1995 General Assembly, and to each succeeding General Assembly, to the Fiscal Research Division of the General Assembly, and to the Joint Legislative Commission on Governmental Operations~~a report outlining the needs of the North Carolina State Museum of Natural Sciences and their recommendation for improvement of the effectiveness of the North Carolina State Museum of Natural Sciences for the purpose hereinabove set forth~~ on or before October 1 of each year."

SECTION 6. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1802*
PROPOSED COMMITTEE SUBSTITUTE H1802-PCS70567-TF-3

Short Title: ENR Reports Consolidation 2010. (Public)

Sponsors:

Referred to:

May 19, 2010

A BILL TO BE ENTITLED

AN ACT TO AMEND OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES REPORTING REQUIREMENTS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-309.06(c)(13) is repealed.

SECTION 2. G.S. 130A-310.57 reads as rewritten:

"**§ 130A-310.57. (Effective until December 31, 2017) Reports.**

The Department shall submit an annual report on the mercury switch removal program under this Part to the Environmental Review ~~Commission~~ Commission, ~~and~~ the Senate and House of Representatives Appropriations Subcommittees on Natural and Economic ~~Resources~~Resources, and the Fiscal Research Division of the General Assembly on or before 1, October of each year. The report shall include, at a minimum, all of the following:

(1) A detailed description of the mercury recovery performance ratio achieved by the mercury switch removal program.

(1a) A detailed description of the mercury switch collection system developed and implemented by vehicle manufacturers in accordance with the NVMSRP.

(2) In the event that a mercury recovery performance ratio of at least 0.90 of the national mercury recovery performance ratio as reported by the NVMSRP is not achieved, a description of additional or alternative actions that may be implemented to improve the mercury switch removal program.

(3) The number of mercury switches collected and a description of how the mercury switches were managed.

(4) A statement that details the costs required to implement the mercury switch removal program including a summary of receipts and disbursements from the Mercury Switch Removal Account."

SECTION 3. G.S. 143-214.13 reads as rewritten:

"**§ 143-214.13. Ecosystem Enhancement Program: reporting requirement.**

(a) The Department of Environment and Natural Resources shall report each year by November 1 to the Environmental Review Commission and to the Joint Legislative Commission on Governmental Operations regarding its progress in implementing the Ecosystem Enhancement Program and its use of the funds in the Ecosystem Restoration Fund. The report shall document statewide wetlands losses and gains and compensatory mitigation

performed under G.S. 143-214.8 through G.S. 143-214.12. The report shall also provide an accounting of receipts and disbursements of the Ecosystem Restoration Fund, an analysis of the per-acre cost of wetlands restoration, and a cost comparison on a per-acre basis between the State's Ecosystem Enhancement Program and private mitigation banks. The Department shall also send a copy of its report to the Fiscal Research Division of the General Assembly.

(b) The Department shall maintain an inventory of all property that is held, managed, maintained, enhanced, restored, or used to create wetlands under the Ecosystem Enhancement Program. The inventory shall also list all conservation easements held by the Department. The inventory shall be included in the annual report required under subsection (a) of this section."

SECTION 4. G.S. 143B-336.1 reads as rewritten:

"**§ 143B-336.1. Special Zoo Fund.**

A special continuing and nonreverting fund, to be called the Special Zoo Fund, is created. The North Carolina Zoological Park shall retain unbudgeted receipts at the end of each fiscal year, beginning June 30, 1989, and deposit these receipts into this Fund. This Fund shall be used for maintenance, repairs, and renovations of exhibits in existing habitat clusters and visitor services facilities, construction of visitor services facilities and support facilities such as greenhouses and temporary animal holding areas, for the replacement of tram equipment as required to maintain adequate service to the public, and for marketing the Zoological Park. The Special Zoo Fund may also be used to match private funds that are raised for these purposes. Funds may be expended for these purposes by the Department of Environment and Natural Resources on the advice of the North Carolina Zoological Park Council and with the approval of the Office of State Budget and Management. The Department of Environment and Natural Resources shall provide ~~an annual~~ a report on or before October 1 of each year to the Office of State Budget and ~~Management~~ Management, ~~and to~~ the Fiscal Research Division of the ~~Legislative Services Office~~ General Assembly, and to the Joint Legislative Commission on Governmental Operations on the use of fees collected pursuant to this section."

SECTION 5. G.S. 143B-344.21 reads as rewritten:

"**§ 143B-344.21. Reports to General Assembly.**

The Commission shall prepare and submit a report outlining the needs of the North Carolina State Museum of Natural Sciences and recommendations for improvement of the effectiveness of the North Carolina State Museum of Natural Sciences for the purpose hereinabove set forth to the 1995 General Assembly, and to each succeeding General Assembly, to the Fiscal Research Division of the General Assembly, and to the Joint Legislative Commission on Governmental Operations~~a report outlining the needs of the North Carolina State Museum of Natural Sciences and their recommendation for improvement of the effectiveness of the North Carolina State Museum of Natural Sciences for the purpose hereinabove set forth~~ on or before October 1 of each year."

SECTION 6. S.L. 2002-4, Section 11, as amended by S.L. 2006-79, reads as rewritten:

"**Section 11.** The Environmental Management Commission shall study the desirability of requiring and the feasibility of obtaining reductions in emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) beyond those required by G.S. 143-215.107D, as enacted by Section 1 of this act. The Environmental Management Commission shall consider the availability of emissions reduction technologies, increased cost to consumers of electric power, reliability of electric power supply, actions to reduce emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) taken by states and other entities whose emissions negatively impact air quality in North Carolina or whose failure to achieve comparable reductions would place the economy of North Carolina at a competitive disadvantage, and the effects that these reductions would have on public health, the environment, and natural resources, including visibility. In its conduct of this study, the Environmental Management Commission may consult with the Utilities Commission and the Public Staff. The Environmental Management Commission shall

report its findings and recommendations to the General Assembly and the Environmental Review Commission ~~annually~~ biennially beginning ~~1 September 2007.~~1 September 2011."

SECTION 7. This act is effective when it becomes law.

HOUSE BILL 1802:
ENR Reports Consolidation 2010

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, State Government/State Personnel	**Date:**	June 1, 2010
Introduced by:	Reps. Harrison, Gibson, Tarleton, Underhill	**Prepared by:**	Mariah Matheson Research Assistant
Analysis of:	PCS to the First Edition (H1802-CSTF-3 [v.3])		

SUMMARY: House Bill 1802 would amend or repeal various environmental and natural resources reporting requirements, as recommended by the Environmental Review Commission.

[As introduced, this bill was identical to S1163, as introduced by Sen. Hartsell, which is currently in Senate Agriculture/Environment/Natural Resources.]

BILL ANALYSIS:

Section 1 would repeal a reporting requirement made obsolete by Section 15 of S.L. 2009-484, which repealed the requirement for each State department, institution, agency, community college, and local school administrative unit to report to the Division of Pollution Prevention and Environmental Assistance of the Department of Environment and Natural Resources (DENR) on the amounts and types of materials and supplies with recycled content that were purchased. Repealing G.S. 130A-309.06(c)(13) removes the requirement for the Division of Waste Management to include information from this report in the annual solid waste management report.

Section 2 would require DENR to submit the mercury switch removal program annual report to the Fiscal Research Division of the General Assembly, in addition to the Environmental Review Commission (ERC) and the Senate and House of Representatives Appropriations Subcommittees on Natural and Economic Resources.

Section 3 would require DENR to submit the Ecosystem Enhancement Program annual report to the Joint Legislative Commission on Governmental Operations (Gov Ops), in addition to the ERC and the Fiscal Research Division.

Section 4 would specify the reporting date of the Special Zoo Fund annual report to October 1 and add an additional reporting requirement from DENR to Gov Ops, in addition to the Office of State Budget Management and the Fiscal Research Division.

Section 5 would specify a reporting date of October 1 for the Advisory Commission for the North Carolina State Museum of Natural Sciences annual report and add an additional reporting requirement from the Commission to the Fiscal Research Division and Gov Ops, in addition to the General Assembly.

PCS: The Proposed Committee Substitute for House Bill 1802 includes a new **Section 6**, which would amend the reporting requirement for the Environmental Management Commission (EMC) report on the desirability of requiring and the feasibility of obtaining reductions in emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) beyond those required by G.S. 143-215.107D from annual to biennial, with the first report due on September 1, 2011. The change to biennial reporting was requested by Steve Smith, Chairman of the EMC.

EFFECTIVE DATE: This act would become effective when it becomes law.

H1802-SMTF-19(e1) v5

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representatives Underhill, Harrison, and Tarleton (Vice-Chairs) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

HB 1802 A BILL TO BE ENTITLED AN ACT TO AMEND OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES REPORTING REQUIREMENTS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on STATE GOVERNMENT/STATE PERSONNEL.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

HOUSE BILL 1765*

Short Title:	Amend IBT Enforcement and Notice.	(Public)
Sponsors:	Representatives Gibson, Harrison (Primary Sponsors); and Hughes.	
Referred to:	Environment and Natural Resources, if favorable, Finance.	

May 18, 2010

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO USE INJUNCTIVE RELIEF TO ENSURE COMPLIANCE WITH INTERBASIN TRANSFER LAWS AND TO PROVIDE THAT AN APPLICANT FOR AN INTERBASIN TRANSFER CERTIFICATE SHALL PAY THE COSTS ASSOCIATED WITH ALL REQUIRED PUBLIC HEARINGS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.6C reads as rewritten:

"**§ 143-215.6C. Enforcement procedures; injunctive relief.**

Whenever the Department has reasonable cause to believe that any person has violated or is threatening to violate any of the provisions of ~~this Part,~~Part 1, Part 1A, or Part 2A of this Article or G.S. 143-355(k) relating to water use information; any of the terms of any permit issued pursuant to ~~this Part,~~ Part 1, Part 1A, or Part 2A of this Article; or a rule implementing ~~this Part,~~ Part 1, Part 1A, or Part 2A of this Article or G.S. 143-355(k) relating to water use information, the Department may, either before or after the institution of any other action or proceeding authorized by this Part, request the Attorney General to institute a civil action in the name of the State upon the relation of the Department for injunctive relief to restrain the violation or threatened violation and for such other and further relief in the premises as the court shall deem proper. The Attorney General may institute such action in the superior court of the county in which the violation occurred or may occur or, in his discretion, in the superior court of the county in which the person responsible for the violation or threatened violation resides or has his or its principal place of business. Upon a determination by the court that the alleged violation ~~of the provisions of this Part or the regulations of the Commission~~ has occurred or is threatened, the court shall grant the relief necessary to prevent or abate the violation or threatened violation. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from any penalty prescribed for violation of ~~this Part.~~ Part 1, Part 1A, or Part 2A of this Article or G.S. 143-355(k) relating to water use information.~~For purposes of this section references to "this Part" include Part 1A of this Article and G.S. 143-355(k) relating to water use information.~~"

SECTION 2. G.S. 143-215.22L(e) reads as rewritten:

"(e) Public Hearing on the Draft Environmental Document. – The Commission shall hold a public hearing on the draft environmental document for a proposed interbasin transfer after giving at least 30 days' written notice of the hearing in the Environmental Bulletin and as provided in subdivisions (2) and (3) of subsection (c) of this section. The notice shall indicate where a copy of the environmental document can be reviewed and the procedure to be followed by anyone wishing to submit written comments and questions on the environmental document.

The Commission shall prepare a record of all comments and written responses to questions posed in writing. The record shall include complete copies of scientific or technical comments related to the potential impact of the interbasin transfer. The Commission shall accept written comment on the draft environmental documents for a minimum of 30 days following the last public hearing. The applicant who petitions the Commission for a certificate under this section shall pay the costs associated with the notice and public hearing on the draft environmental document."

SECTION 3. G.S. 143-215.22L(j) reads as rewritten:

"(j) Public Hearing on the Draft Determination. – Within 60 days of the issuance of the draft determination as provided in subsection (i) of this section, the Commission shall hold public hearings on the draft determination. At least one hearing shall be held in the affected area of the source river basin, and at least one hearing shall be held in the affected area of the receiving river basin. In determining whether more than one public hearing should be held within either the source or receiving river basins, the Commission shall consider the differing or conflicting interests that may exist within the river basins, including the interests of both upstream and downstream parties potentially affected by the proposed transfer. The public hearings shall be conducted by one or more hearing officers appointed by the Chair of the Commission. The hearing officers may be members of the Commission or employees of the Department. The Commission shall give at least 30 days' written notice of the public hearing as provided in subsection (c) of this section. The Commission shall accept written comment on the draft determination for a minimum of 30 days following the last public hearing. The Commission shall prepare a record of all comments and written responses to questions posed in writing. The record shall include complete copies of scientific or technical comments related to the potential impact of the interbasin transfer. The applicant who petitions the Commission for a certificate under this section shall pay the costs associated with the notice and public hearing on the draft determination."

SECTION 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1765*
PROPOSED COMMITTEE SUBSTITUTE H1765-CSSB-87 [v.3]

5/31/2010 12:59:12 PM

Short Title: Amend IBT Enforcement and Notice. (Public)

Sponsors:

Referred to:

May 18, 2010

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO USE INJUNCTIVE RELIEF TO ENSURE COMPLIANCE WITH WATER WITHDRAWAL AND WATER TRANSFER LAWS AND TO PROVIDE THAT AN APPLICANT FOR AN INTERBASIN TRANSFER CERTIFICATE SHALL PAY THE COSTS ASSOCIATED WITH ALL REQUIRED PUBLIC HEARINGS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.6C reads as rewritten:

"**§ 143-215.6C. Enforcement procedures; injunctive relief.**

Whenever the Department has reasonable cause to believe that any person has violated or is threatening to violate any of the provisions of ~~this Part,~~Part 1; Part 1A, or Part 2A of this Article or G.S. 143-355(k) relating to water use information; any of the terms of any permit issued pursuant to ~~this Part,~~ Part 1, Part 1A, or Part 2A of this Article; or a rule implementing ~~this Part,~~ Part 1, Part 1A, or Part 2A of this Article or G.S. 143-355(k) relating to water use information, the Department may, either before or after the institution of any other action or proceeding authorized by this Part, request the Attorney General to institute a civil action in the name of the State upon the relation of the Department for injunctive relief to restrain the violation or threatened violation and for such other and further relief in the premises as the court shall deem proper. The Attorney General may institute such action in the superior court of the county in which the violation occurred or may occur or, in his discretion, in the superior court of the county in which the person responsible for the violation or threatened violation resides or has his or its principal place of business. Upon a determination by the court that the alleged violation ~~of the provisions of this Part or the regulations of the Commission~~ has occurred or is threatened, the court shall grant the relief necessary to prevent or abate the violation or threatened violation. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from any penalty prescribed for violation of ~~this Part.~~ Part 1, Part 1A, or Part 2A of this Article or G.S. 143-355(k) relating to water use information.~~For purposes of this section references to "this Part" include Part 1A of this Article and G.S. 143-355(k) relating to water use information.~~"

SECTION 2. G.S. 143-215.22L(e) reads as rewritten:

"(e) Public Hearing on the Draft Environmental Document. – The Commission shall hold a public hearing on the draft environmental document for a proposed interbasin transfer after giving at least 30 days' written notice of the hearing in the Environmental Bulletin and as

provided in subdivisions (2) and (3) of subsection (c) of this section. The notice shall indicate where a copy of the environmental document can be reviewed and the procedure to be followed by anyone wishing to submit written comments and questions on the environmental document. The Commission shall prepare a record of all comments and written responses to questions posed in writing. The record shall include complete copies of scientific or technical comments related to the potential impact of the interbasin transfer. The Commission shall accept written comment on the draft environmental ~~documents~~ document for a minimum of 30 days following the last public hearing. The applicant who petitions the Commission for a certificate under this section shall pay the costs associated with the notice and public hearing on the draft environmental document."

SECTION 3. G.S. 143-215.22L(j) reads as rewritten:

"(j) Public Hearing on the Draft Determination. – Within 60 days of the issuance of the draft determination as provided in subsection (i) of this section, the Commission shall hold public hearings on the draft determination. At least one hearing shall be held in the affected area of the source river basin, and at least one hearing shall be held in the affected area of the receiving river basin. In determining whether more than one public hearing should be held within either the source or receiving river basins, the Commission shall consider the differing or conflicting interests that may exist within the river basins, including the interests of both upstream and downstream parties potentially affected by the proposed transfer. The public hearings shall be conducted by one or more hearing officers appointed by the Chair of the Commission. The hearing officers may be members of the Commission or employees of the Department. The Commission shall give at least 30 days' written notice of the public hearing as provided in subsection (c) of this section. The Commission shall accept written comment on the draft determination for a minimum of 30 days following the last public hearing. The Commission shall prepare a record of all comments and written responses to questions posed in writing. The record shall include complete copies of scientific or technical comments related to the potential impact of the interbasin transfer. The applicant who petitions the Commission for a certificate under this section shall pay the costs associated with the notice and public hearing on the draft determination."

SECTION 4. This act is effective when it becomes law. Sections 2 and 3 of this act apply to the costs, including costs of notice, associated with public hearings held on or after the date this act becomes effective.

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 1, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Janie Hauser	DENR
Nick Tosco	NCLM
John McMillan	MFTS
Kathy Hawkins	Progress Energy
Lori Ann Harris	LHHA
Michelle Frazier	MFTS
John Hardin	MFTS
Daniel Auburn	ElectriCities
Peter Raabe	American Rivers
Elise Vergnano	American Rivers
Dan Crawford	CCNC

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — **Name of Committee**

June 1, 2010 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Amy Simms	DENR
Brian Pemberton	MWC
Hassan Khan	NCCN
Carl Mackensen	Sierra Club
Gray Wilson	Fiscal Research
Peter Gehred	CCNC
Kimberlee Rankin	Sierra Club
T Reeder	NC DWR
Tom Fransen	DWR NCDENR
Elizabeth Biser	DENR
Robin Smith	DENR

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 1, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bruce Thompson	Parker Poe
Elizabeth Curtis	Environment North Carolina
Ian Cars	TNC
Rob Lamm	RLA
Lynn Edwards	Leadership Anson
Carrie Bunn	Leadership Anson
Merry Privett	Leadership Anson
Scott Collier	Leadership Anson
Tom Coley	CWA
Doris Weaver	CWA

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 1, 2010

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Elizabeth Robinson	NCEMA
Bobby Jones	Biofuels Ctr of NC
George Everett	Duke Energy
Rick Zechini	NC Assoc. of Realtors
Lisa Martin	NC Home Builders
Preston Howard	MCIC
Doug Lassiter	NCSTA
Fran Piercy	Ragsdale Liggett PLLC
John Goodman	NC CHAMBER
Weatherly Rose	Hunton + Williams
Jesse M Cox	CDI PO Box 1262 Wadesboro NC

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — **Name of Committee**

June 1, 2010 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jon Hamby	J Hamby Farm
L. Andrews	NCFB
Sushma Masemore	NC Div. of Air Quality
Michael R Thompson	Dominion
William Aldridge	NCFB
[illegible]	NCBA
[illegible]	Rep Alexander
Andrew Cagle	DLC
Vernon Cox	NCDA&CS
Lu-Ann [illegible]	DLC
[illegible]	NPDES

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 1, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jim Lowry	NC Utility Contractors Association
Jonah Dawson	Intern to Rep. Luebke
[illegible]	Pyser & Smith
Kim Blackburn	NC Association of County Commissioners
Danna Fenton	City of Charlotte
Kim Ward	NCBM
Patrick B[illegible]	NCAEC
Jim Johnson	BSA
Doug Miskiw	PSG/Capstrat
Andrew Meehan	Capstrat
Gary Harris	NC Petroleum & Conv. Stores
Doug Howey	

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — **Name of Committee**

June 1, 2010 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Caroline Hightower	Leadership Anson
Nichole Cox	Leadership Anson
RYAN TEAL	Leadership Anson
Kevin Mullis	Leadership Anson
Teresa Downer	Leadership Anson
Frances Moore	Leadership Anson
Donna Sales	Leadership Anson
Gerald Cannon	Leadership Anson
Lewis McLendon Jr.	Leadership Anson

ENVIRONMENT AND NATURAL RESOURCES

HOUSE PAGES

NAME OF COMMITTEE _____ DATE JUNE 1, 2010

1. Name: Janice Blevins
   County: Davidson
   Sponsor: Hugh Holliman
2. Name: Kyndal Coote
   County: Guilford
   Sponsor: Alma Adams
3. Name: Molly Brewer
   County: Transylvania
   Sponsor: David Guice
4. Name: _____
   County: _____
   Sponsor: _____
5. Name: _____
   County: _____
   Sponsor: _____

SGT-AT-ARM

1. Name: FRED HINES
2. Name: EARL COKER
3. Name: YOUNG BAE
4. Name: JAMES WORTH

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

JUNE 8, 2010

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Tuesday, June 8, 2010, in room 643 of the Legislative Office Building with Representative Pricey Harrison presiding. Members present were: Representatives Gillespie, Underhill, and Tarleton, Vice-Chairs; Representatives K. Alexander, Floyd, Gibson, Haire, Insko, Luebke, Martin, May, McComas, McElraft, Samuelson, Tucker, West, and Womble.

Representative Harrison called the meeting to order at 12:05 p.m. She began by introducing the pages for the day and the sergeant-at-arms staff assigned to the meeting (list attached).

The first item on the agenda was House Bill 1710 – A BILL TO BE ENTITLED AN ACT TO PROVIDE AN EXPEDITED PROCESS BY WHICH THE MARINE FISHERIES COMMISSION MAY SUPPLEMENT FISHERY MANAGEMENT PLANS, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE. Representative Wainwright, the bill's primary sponsor, was recognized to present the bill. Once questions by committee members were satisfactorily addressed, Representative Womble made a motion for a favorable report for HB 1710. This motion received unanimous approval.

Representative Tarleton was recognized, in the absence of one of the primary sponsors, to present Committee Substitute for HB 1743 - A BILL TO BE ENTITLED AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND THE LOCAL GOVERNMENT COMMISSION OF THE DEPARTMENT OF THE STATE TREASURER TO JOINTLY EVALUATE THE POTENTIAL BENEFITS OF MONITORING THE FINANCIAL CONDITION OF PUBLIC WATER SYSTEMS AND WASTEWATER SYSTEMS, AS RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON WATER AND WASTEWATER INFRASTRUCTURE. Representative Underhill made a motion for a proposed committee substitute for HB 1743 to be placed before the committee for consideration. Tim Dodge, Committee Analyst, was called upon to explain the PCS. Robin Smith with the Department of Environment and Natural Resources was called upon to assist in answering questions from committee members. Once all concerns were satisfactorily addressed, Representative Tucker made a motion for a favorable report as to committee substitute bill 2, unfavorable as to committee substitute bill 1. This motion received unanimous approval.

Next on the agenda was HB 1744 - A BILL TO BE ENTITLED AN ACT TO MODIFY THE COMMON CRITERIA APPLICABLE TO LOANS AND GRANTS FOR WATER AND WASTEWATER INFRASTRUCTURE PROJECTS TO: (1) CLARIFY THAT LEAKING WATERLINES ARE A PRIORITY FOR BOTH WATER QUANTITY AND WATER QUALITY PURPOSES; (2) INCLUDE ASSET MANAGEMENT PLANNING, REGIONALIZATION, STATE WATER SUPPLY PLANNING, AND DROUGHT MANAGEMENT IN THE LIST OF COMMON CRITERIA THAT RECEIVE PRIORITY FOR FUNDING; (3) ESTABLISH A SLIDING SCALE SYSTEM FOR DETERMINING THE

PRIORITY GIVEN TO PROJECTS THAT EXCEED THE HIGH-UNIT-COST THRESHOLD; AND (4) PROVIDE THAT A PROJECT THAT DEMONSTRATES IT IS NOT

PRACTICABLE FOR THE PROJECT TO PURSUE REGIONALIZATION BASED ON TOPOGRAPHY OR OTHER FACTORS SHALL BE GIVEN THE SAME PRIORITY FOR REGIONALIZATION AS A PROJECT THAT INCLUDES REGIONALIZATION, AS RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON WATER AND WASTEWATER INFRASTRUCTURE. Representative Tarleton was called upon to present the bill with the assistance of Tim Dodge, Committee Analyst. The Chair welcomed questions from the committee. Once these had been satisfactorily addressed, Representative Haire made a motion for a favorable report, which passed without objection.

HB 1765 - A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO USE INJUNCTIVE RELIEF TO ENSURE COMPLIANCE WITH INTERBASIN TRANSFER LAWS AND TO PROVIDE THAT AN APPLICANT FOR AN INTERBASIN TRANSFER CERTIFICATE SHALL PAY THE COSTS ASSOCIATED WITH ALL REQUIRED PUBLIC HEARINGS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION, was next on the agenda. Representative Gibson was called upon to present the bill. Representative Tarleton made a motion for a proposed committee substitute to be before the committee for consideration. Jeff Hudson, Committee Council, was asked to explain the PCS. Representative Tarleton made a motion for a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be referred to the Committee on Finance. This motion received unanimous approval.

Next on the agenda was SB 887 - A BILL TO BE ENTITLED AN ACT TO MAKE FURTHER SUBSTANTIVE, CLARIFYING, TECHNICAL, AND CONFORMING AMENDMENTS TO THE LAWS GOVERNING THE MANAGEMENT OF DISCARDED COMPUTER EQUIPMENT AND DISCARDED TELEVISIONS. Senator Vaughan, one of the bill's primary sponsors, was called upon to present the bill before the committee. Representative Tarleton made a motion that a proposed committee substitute for the bill be placed before the committee. Representative Gibson and Committee Council, Jennifer McGinnis, explained the PCS. It was noted that this bill, similar to HB 1761 and SB 13, puts forth language that came from the study commission. Representative Alexander sent forth amendment number 1 (copy attached). Discussion ensued with several speakers expressing opinions: Bruce Thompson, representing Apple Computers, spoke in favor of the amendment; Nick Tasso with the League of Municipalities indicated that his organization had no opinion either way on the amendment; Kevin Leonard with the North Carolina Association of County Commissioners said they were neutral as to the amendment, but would oppose it if it would hamper the passage of the legislation; and, Jack Cozort, representing Dell Computers, spoke in opposition to the amendment. Representative Insko noted the time and suggested that the bill be carried over in order for all concerns to be addressed. Senator Vaughan, agreeing to table the bill and the amendment at this time, made closing remarks.

MINUTES

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JUNE 8, 2010

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PRACTICABLE FOR THE PROJECT TO PURSUE REGIONALIZATION BASED ON TOPOGRAPHY OR OTHER FACTORS SHALL BE GIVEN THE SAME PRIORITY FOR REGIONALIZATION AS A PROJECT THAT INCLUDES REGIONALIZATION, AS RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON WATER AND WASTEWATER INFRASTRUCTURE. Representative Tarleton was called upon to present the bill with the assistance of Tim Dodge, Committee Analyst. The Chair welcomed questions from the committee. Once these had been satisfactorily addressed, Representative Haire made a motion for a favorable report, which passed without objection.

HB 1765 - A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO USE INJUNCTIVE RELIEF TO ENSURE COMPLIANCE WITH INTERBASIN TRANSFER LAWS AND TO PROVIDE THAT AN APPLICANT FOR AN INTERBASIN TRANSFER CERTIFICATE SHALL PAY THE COSTS ASSOCIATED WITH ALL REQUIRED PUBLIC HEARINGS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION, was next on the agenda. Representative Gibson was called upon to present the bill. Representative Tarleton made a motion for a proposed committee substitute to be before the committee for consideration. Jeff Hudson, Committee Council, was asked to explain the PCS. Representative Tarleton made a motion for a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be referred to the Committee on Finance. This motion received unanimous approval.

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With no further business to come before the committee, the meeting was adjourned at 1:00 p.m.

Respectfully submitted,

Representative Pricey Harrison, Chair

Shara Graham, Committee Assistant

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE MEETING

June 8, 2010
12:00 NOON
Room 643 LOB

Representative Pricey Harrison, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

HB 1710 - Fishery Management Plan Supplements
Primary Sponsors: Reps. Wainwright, Underhill

HB 1743 - DENR/LGC Evaluate Water System Operations
Primary Sponsors: Reps. Crawford, Gillespie, Owens, Tarleton

HB 1744 - Modify Water Funding Priorities
Primary Sponsors: Reps. Crawford, Gillespie, Owens, Tarleson

SB 887 - Amend Electronics Recycling Law
Primary Sponsor: Sen. Vaughan

HB 1765 - Amend IBT Enforcement and Notice
Primary Sponsors: Reps. Gibson, Harrison

ADJOURNMENT

HOUSE BILL 1710
Committee Substitute Favorable 5/26/10

Short Title: Fishery Management Plan Supplements. (Public)

Sponsors:

Referred to:

May 17, 2010

A BILL TO BE ENTITLED

AN ACT TO PROVIDE AN EXPEDITED PROCESS BY WHICH THE MARINE FISHERIES COMMISSION MAY SUPPLEMENT FISHERY MANAGEMENT PLANS, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-182.1 reads as rewritten:

"**§ 113-182.1. Fishery Management Plans.**

(a) The Department shall prepare proposed Fishery Management Plans for adoption by the Marine Fisheries Commission for all commercially or recreationally significant species or fisheries that comprise State marine or estuarine resources. Proposed Fishery Management Plans shall be developed in accordance with the Priority List, Schedule, and guidance criteria established by the Marine Fisheries Commission under G.S. 143B-289.52.

(b) The goal of the plans shall be to ensure the long-term viability of the State's commercially and recreationally significant species or fisheries. Each plan shall be designed to reflect fishing practices so that one plan may apply to a specific fishery, while other plans may be based on gear or geographic areas. Each plan shall:

(1) Contain necessary information pertaining to the fishery or fisheries, including management goals and objectives, status of relevant fish stocks, stock assessments for multiyear species, fishery habitat and water quality considerations consistent with Coastal Habitat Protection Plans adopted pursuant to G.S. 143B-279.8, social and economic impact of the fishery to the State, and user conflicts.

(2) Recommend management actions pertaining to the fishery or fisheries.

(3) Include conservation and management measures that will provide the greatest overall benefit to the State, particularly with respect to food production, recreational opportunities, and the protection of marine ecosystems, and that will produce a sustainable harvest.

(4) Specify a time period, not to exceed 10 years from the date of the adoption of the plan, for ending overfishing and achieving a sustainable harvest. This subdivision shall only apply to a plan for a fishery that is overfished. This subdivision shall not apply to a plan for a fishery where the biology of the fish or environmental conditions make ending overfishing and achieving a sustainable harvest within 10 years impracticable.

(c) To assist in the development of each Fishery Management Plan, the Chair of the Marine Fisheries Commission shall appoint a fishery management plan advisory committee. Each fishery management plan advisory committee shall be composed of commercial

fishermen, recreational fishermen, and scientists, all with expertise in the fishery for which the Fishery Management Plan is being developed.

(c1) The Department shall consult with the regional advisory committees established pursuant to G.S. 143B-289.57(e) regarding the preparation of each Fishery Management Plan. Before submission of a plan for review by the Joint Legislative Commission on Seafood and Aquaculture, the Department shall review any comment or recommendation regarding the plan that a regional advisory committee submits to the Department within the time limits established in the Schedule for the development and adoption of Fishery Management Plans established by G.S. 143B-289.52. ~~The Commission shall consult with the regional advisory committees regarding the development of any temporary management measure that the Commission determines to be necessary to ensure the viability of the species or fishery while the plan is being developed and regarding the development of any management measure to implement the plan.~~ Before the Commission adopts ~~a temporary management measure or~~ a management measure to implement a plan, the Commission shall review any comment or recommendation regarding the management measure that a regional advisory committee submits to the Commission.

(d) Each Fishery Management Plan shall be reviewed at least once every five years. The Marine Fisheries Commission may revise the Priority List and guidance criteria whenever it determines that a revision of the Priority List or guidance criteria will facilitate or improve the development of Fishery Management Plans or is necessary to restore, conserve, or protect the marine and estuarine resources of the State. The Marine Fisheries Commission may not revise the Schedule for the development of a Fishery Management Plan, once adopted, without the approval of the Secretary of Environment and Natural Resources.

(e) The Secretary of Environment and Natural Resources shall monitor progress in the development and adoption of Fishery Management Plans in relation to the Schedule for development and adoption of the plans established by the Marine Fisheries Commission. The Secretary of Environment and Natural Resources shall report to the Joint Legislative Commission on Seafood and Aquaculture on progress in developing and implementing the Fishery Management Plans on or before 1 September of each year. The Secretary of Environment and Natural Resources shall report to the Joint Legislative Commission on Seafood and Aquaculture within 30 days of the completion or substantial revision of each proposed Fishery Management Plan. The Joint Legislative Commission on Seafood and Aquaculture shall review each proposed Fishery Management Plan within 30 days of the date the proposed Plan is submitted by the Secretary. The Joint Legislative Commission on Seafood and Aquaculture may submit comments and recommendations on the proposed Plan to the Secretary within 30 days of the date the proposed Plan is submitted by the Secretary.

(e1) If the Secretary determines that it is in the interest of the long-term viability of a fishery, the Secretary may authorize the Commission to develop temporary management measures to supplement an existing Fishery Management Plan pursuant to this subsection. Development of temporary management measures pursuant to this subsection is exempt from subsections (c), (c1), and (e) of this section and the Priority List, Schedule, and guidance criteria established by the Marine Fisheries Commission under G.S. 143B-289.52. During the next review period for a Fishery Management Plan supplemented pursuant to this subsection, the Commission shall either incorporate the temporary management measures into the revised Fishery Management Plan or the temporary management measures shall expire on the date the revised Fishery Management Plan is adopted.

(f) The Marine Fisheries Commission shall adopt rules to implement Fishery Management Plans in accordance with Chapter 150B of the General Statutes.

(g) To achieve sustainable harvest under a Fishery Management Plan, the Marine Fisheries Commission may include in the Plan a recommendation that the General Assembly limit the number of fishermen authorized to participate in the fishery. The Commission may

recommend that the General Assembly limit participation in a fishery only if the Commission determines that sustainable harvest cannot otherwise be achieved. In determining whether to recommend that the General Assembly limit participation in a fishery, the Commission shall consider all of the following factors:

(1) Current participation in and dependence on the fishery.
(2) Past fishing practices in the fishery.
(3) Economics of the fishery.
(4) Capability of fishing vessels used in the fishery to engage in other fisheries.
(5) Cultural and social factors relevant to the fishery and any affected fishing communities.
(6) Capacity of the fishery to support biological parameters.
(7) Equitable resolution of competing social and economic interests.
(8) Any other relevant considerations."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 1710:
Fishery Management Plan Supplements

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	June 8, 2010
Introduced by:	Reps. Wainwright, Underhill	**Prepared by:**	Jeff Hudson
Analysis of:	Second Edition		Committee Counsel

SUMMARY: House Bill 1710 would provide an expedited process by which the Marine Fisheries Commission could supplement Fishery Management Plans.

House Bill 1710 is a recommendation of the Joint Legislative Commission on Seafood and Aquaculture.

[As introduced, this bill was identical to S1277, as introduced by Sen. Albertson, which is currently in Senate Agriculture/Environment/Natural Resources.]

CURRENT LAW:

Under current law, the Marine Fisheries Commission (MFC) adopts Fishery Management Plans (FMPs) for all commercially or recreationally significant marine fisheries. The FMPs must be reviewed by the MFC at least once every 5 years. Development of FMPs includes the following steps:

The Chair of the MFC must appoint a fishery management plan advisory committee to assist with the development of the FMP.

- The Department of Environment and Natural Resources (DENR) must consult with regional advisory committees.
- The MFC must review comments or recommendations submitted by the regional advisory committees.
- The Secretary of Environment and Natural Resources (Secretary) must report to the Joint Legislative Commission on Seafood and Aquaculture (Seafood and Aquaculture) within 30 days of the completion or substantial revision of a FMP and Seafood and Aquaculture has 30 days within which to comment on the FMP.

BILL ANALYSIS:

House Bill 1710 would provide that if the Secretary determines that it is in the interest of the long-term viability of a fishery, the Secretary may authorize the MFC to develop temporary management measures to supplement an existing FMP without going through the steps outlined above. During the next review period for a FMP supplemented by temporary management measures, the MFC would either have to incorporate the temporary management measures into the FMP or the temporary management measures would automatically expire.

FFECTIVE DATE: This act is effective when it becomes law.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representatives Harrison, Tarleton, Underhill (Vice-Chairs) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒ Committee Substitute for

HB 1710 A BILL TO BE ENTITLED AN ACT TO PROVIDE AN EXPEDITED PROCESS BY WHICH THE MARINE FISHERIES COMMISSION MAY SUPPLEMENT FISHERY MANAGEMENT PLANS, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

☒ With a favorable report.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 1743*
Committee Substitute Favorable 5/26/10

Short Title: DENR/LGC Evaluate Water System Operations. (Public)

Sponsors:

Referred to:

May 18, 2010

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND THE LOCAL GOVERNMENT COMMISSION OF THE DEPARTMENT OF THE STATE TREASURER TO JOINTLY EVALUATE THE POTENTIAL BENEFITS OF MONITORING THE FINANCIAL CONDITION OF PUBLIC WATER SYSTEMS AND WASTEWATER SYSTEMS, AS RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON WATER AND WASTEWATER INFRASTRUCTURE.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Environment and Natural Resources and the Local Government Commission of the Department of State Treasurer shall jointly evaluate the costs and benefits of requiring each public water system or wastewater system in the State to demonstrate that the system raises sufficient revenue to cover the costs associated with proper operation of the system, including the costs of maintenance, repair, and replacement of collection, treatment, and distribution infrastructure.

(1) The Department of Environment and Natural Resources and the Local Government Commission shall specifically consider increasing their oversight role to include the following actions:
   a. Review grant applications submitted by a system to ensure that the proposed grant match is funded from local revenues as opposed to another grant.
   b. Develop benchmarks that a system must meet to ensure that the system is operating in a financially sound manner.

(2) The Department of Environment and Natural Resources and the Local Government Commission shall specifically evaluate the desirability of requiring each public water system and wastewater system in the State to conduct the following actions:
   a. Submit an annual audit statement to State water and wastewater infrastructure funding agencies to which the system is applying for loan or grant funds for the purpose of reporting on the operation of the system and to demonstrate whether the water and wastewater rates of each system are sufficient to maintain system operations and meet debt service obligations.
   b. Implement remedial measures in the event that the audit statement indicates a shortfall, including the submission of a written explanation for the revenue shortfall from the governing body of the

system and the development of a plan to ensure that system revenues cover system costs.

c. Maintain a capital reserve fund.

d. Provide notification to funding agencies when a system is failing to operate in compliance with applicable State and federal water quality standards.

(3) The Department of Environment and Natural Resources and the Local Government Commission shall identify and consider other actions or measures that would improve the oversight of the financial condition of public water systems and wastewater systems.

SECTION 2. For the purposes of this act, "public water system" has the same meaning as in G.S. 130A-313(10) and "wastewater system" has the same meaning as in G.S. 159G-20(25).

SECTION 3. The Department of Environment and Natural Resources and the Local Government Commission shall jointly report their findings and recommendations to the Legislative Study Commission on Water and Wastewater Infrastructure no later than November 1, 2010.

SECTION 4. This act is effective when it becomes law.

HOUSE BILL 1743:
DENR/LGC Evaluate Water System Operations

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	June 8, 2010
Introduced by:	Reps. Crawford, Gillespie, Owens, Tarleton	**Prepared by:**	Tim Dodge Committee Counsel
Analysis of:	PCS to Second Edition H1743-CSSY-9 [v.2]		

SUMMARY: ***House Bill 1743 directs the Department of Environment and Natural Resources (DENR) and the Local Government Commission (LGC) to jointly evaluate the costs and benefits of implementing various measures to increase the oversight of public water systems and wastewater systems to ensure that the systems are operating in a financially sound manner.***

House Bill 1743 was recommended by the Legislative Study Commission on Water and Wastewater Infrastructure. As introduced, this bill was identical to S1283, as introduced by Sen. Albertson, which is currently in Senate Agriculture/Environment/Natural Resources.

CURRENT LAW: DENR must approve any plans to locate, construct, alter or operate a public water system in the State, during which DENR ensures that the system has adequate resources for the operation, service, and maintenance of the system. (G.S. 130A-317). The Environmental Management Commission, as part of its permitting process for wastewater systems, certifies that systems are financially qualified to carry out the activities for which they seek a permit. (G.S. 143-215.1). Pursuant to Chapter 159 of the General Statutes (Local Government Finance), the LGC must approve all bonds, notes, or other debt instruments issued by local governments, including those related to public water systems and wastewater systems prior to issuance of the debt instruments. The LGC also monitors certain fiscal and accounting standards prescribed for local governments and provides technical and educational assistance to local governments concerning financial, accounting, and cash management systems.

BILL ANALYSIS: The bill directs DENR and the LGC to jointly evaluate the costs and benefits of increasing their role in the financial oversight of public water systems and wastewater systems. The bill directs DENR and the LGC to consider the development of benchmarks that a system must meet to ensure that the system is operating in a financially sound manner, and to review grant applications submitted by a system to determine the portion of the proposed grant match that is funded from local revenues as opposed to another grant. In addition, the bill directs the DENR and the LGC to evaluate the desirability of requiring public water systems and wastewater systems to do the following:

- Submit annual audit statements to State funding agencies to demonstrate the sufficiency of the system's rates.
- Take remedial measures in the event that a shortfall is found.
- Maintain a capital reserve fund.
- Demonstrate in grant applications that the grant match proposed by the system is funded from local revenues as opposed to another grant.

- Notify funding agencies when the system fails to operate in compliance with applicable State and federal water quality standards.

The bill also directs DENR and the LGC to identify other measures that would improve the financial oversight of public water systems and wastewater systems in the State.

DENR and the LGC would jointly report the findings and recommendations to the Legislative Study Commission on Water and Wastewater Infrastructure no later than November 1, 2010.

CHANGES MADE IN THE PROPOSED COMMITTEE SUBSTITUTE (PCS): The 2nd edition of the bill directs DENR and the LGC to review grant applications submitted by a system to ensure that the proposed grant match is funded from local revenues as opposed to another grant. This language is at odds with the funding guidelines of some State and federal funding agencies, including some programs that are specifically authorized to provide a portion of the local matching requirements in order to permit distressed communities to take advantage of other grant programs. For example, the Appalachian Regional Commission operates a federal grant program the purpose of which is to "enable the people, States, and local communities of the Appalachian region, including local development districts, to take maximum advantage of federal grant programs for which they are eligible but for which, because of their economic situation, they cannot supply the required matching share."[1]

The PCS instead authorizes DENR and the LGC to review applications and look at the source of the matching grant. This approach reflects the value in collecting information on the source of the funds, but removes an indication of an across-the-board preference for a local source of grant match funds.

EFFECTIVE DATE: The PCS would become effective when it becomes law.

H1743-SMSY-15(CSSY-9) v2

[1] Supplements to Federal Grant Programs, 40 U.S.C. §14507.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1743*
Committee Substitute Favorable 5/26/10
PROPOSED COMMITTEE SUBSTITUTE H1743-PCS50932-SY-9

Short Title: DENR/LGC Evaluate Water System Operations. (Public)

Sponsors:

Referred to:

May 18, 2010

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND THE LOCAL GOVERNMENT COMMISSION OF THE DEPARTMENT OF STATE TREASURER TO JOINTLY EVALUATE THE POTENTIAL BENEFITS OF MONITORING THE FINANCIAL CONDITION OF PUBLIC WATER SYSTEMS AND WASTEWATER SYSTEMS, AS RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON WATER AND WASTEWATER INFRASTRUCTURE.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Environment and Natural Resources and the Local Government Commission of the Department of State Treasurer shall jointly evaluate the costs and benefits of requiring each public water system or wastewater system in the State to demonstrate that the system raises sufficient revenue to cover the costs associated with proper operation of the system, including the costs of maintenance, repair, and replacement of collection, treatment, and distribution infrastructure.

(1) The Department of Environment and Natural Resources and the Local Government Commission shall specifically consider increasing their oversight role to include the following actions:
   a. Review grant applications submitted by a system to determine the portion of the proposed grant match that is funded from local revenues as opposed to another grant.
   b. Develop benchmarks that a system must meet to ensure that the system is operating in a financially sound manner.

(2) The Department of Environment and Natural Resources and the Local Government Commission shall specifically evaluate the desirability of requiring each public water system and wastewater system in the State to conduct the following actions:
   a. Submit an annual audit statement to State water and wastewater infrastructure funding agencies to which the system is applying for loan or grant funds for the purpose of reporting on the operation of the system and to demonstrate whether the water or wastewater rates of each system are sufficient to maintain system operations and meet debt service obligations.

b. Implement remedial measures in the event that the audit statement indicates a shortfall, including the submission of a written explanation for the revenue shortfall from the governing body of the system and the development of a plan to ensure that system revenues cover system costs.

c. Maintain a capital reserve fund.

d. Provide notification to funding agencies when a system is failing to operate in compliance with applicable State and federal water quality standards.

(3) The Department of Environment and Natural Resources and the Local Government Commission shall identify and consider other actions or measures that would improve the oversight of the financial condition of public water systems and wastewater systems.

SECTION 2. For the purposes of this act, "public water system" has the same meaning as in G.S. 130A-313(10), and "wastewater system" has the same meaning as in G.S. 159G-20(25).

SECTION 3. The Department of Environment and Natural Resources and the Local Government Commission shall jointly report their findings and recommendations to the Legislative Study Commission on Water and Wastewater Infrastructure no later than November 1, 2010.

SECTION 4. This act is effective when it becomes law.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representatives Harrison, Tarleton, and Underhill (Vice-Chairs) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒Committee Substitute for

HB 1743 A BILL TO BE ENTITLED AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND THE LOCAL GOVERNMENT COMMISSION OF THE DEPARTMENT OF THE STATE TREASURER TO JOINTLY EVALUATE THE POTENTIAL BENEFITS OF MONITORING THE FINANCIAL CONDITION OF PUBLIC WATER SYSTEMS AND WASTEWATER SYSTEMS, AS RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON WATER AND WASTEWATER INFRASTRUCTURE.

☒ With a favorable report as to Committee Substitute Bill 2, unfavorable as to Committee Substitute Bill 1.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 1744
Committee Substitute Favorable 5/26/10

Short Title: Modify Water Funding Priorities. (Public)

Sponsors:

Referred to:

May 18, 2010

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE COMMON CRITERIA APPLICABLE TO LOANS AND GRANTS FOR WATER AND WASTEWATER INFRASTRUCTURE PROJECTS TO: (1) CLARIFY THAT LEAKING WATERLINES ARE A PRIORITY FOR BOTH WATER QUANTITY AND WATER QUALITY PURPOSES; (2) INCLUDE ASSET MANAGEMENT PLANNING, REGIONALIZATION, STATE WATER SUPPLY PLANNING, AND DROUGHT MANAGEMENT IN THE LIST OF COMMON CRITERIA THAT RECEIVE PRIORITY FOR FUNDING; (3) ESTABLISH A SLIDING SCALE SYSTEM FOR DETERMINING THE PRIORITY GIVEN TO PROJECTS THAT EXCEED THE HIGH-UNIT-COST THRESHOLD; AND (4) PROVIDE THAT A PROJECT THAT DEMONSTRATES IT IS NOT PRACTICABLE FOR THE PROJECT TO PURSUE REGIONALIZATION BASED ON TOPOGRAPHY OR OTHER FACTORS SHALL BE GIVEN THE SAME PRIORITY FOR REGIONALIZATION AS A PROJECT THAT INCLUDES REGIONALIZATION, AS RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON WATER AND WASTEWATER INFRASTRUCTURE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159G-20 is amended by adding a new subdivision to read:

"(28) Asset management plan. – The strategic and systematic application of management practices applied to the infrastructure assets of a local government unit in order to minimize the total costs of acquiring, operating, maintaining, improving, and replacing the assets while at the same time maximizing the efficiency, reliability, and value of the assets."

SECTION 2. G.S. 159G-23 reads as rewritten:

"**§ 159G-23. Common criteria for loan or grant from Wastewater Reserve or Drinking Water Reserve.**

The criteria in this section apply to a loan or grant from the Wastewater Reserve or the Drinking Water Reserve. The Division of Water Quality and the Division of Environmental Health must each establish a system of assigning points to applications based on the following criteria:

(1) Public necessity. – An applicant must explain how the project promotes public health and protects the environment. A project that improves a system that is not in compliance with permit requirements or is under orders from the Department, enables a moratorium to be lifted, or replaces failing septic tanks with a wastewater collection system has priority.

(2) Effect on impaired waters. – A project that improves designated impaired waters of the State has priority.

(3) Efficiency. – A project that achieves efficiencies in meeting the State's water infrastructure needs or reduces vulnerability to drought consistent with Part 2A of Article 21 and Article 38 of Chapter 143 of the General Statutes by one of the following methods has priority:

a. The combination of two or more wastewater or public water systems into a regional wastewater or public water system by merger, consolidation, or another means.

b. Conservation or reuse of water, including bulk water reuse facilities and waterlines to supply reuse water for irrigation and other approved uses.

c. Construction of an interconnection between water systems intended for use in drought or other water shortage emergency.

d. Repair or replacement of leaking ~~waterlines.~~waterlines to improve water conservation and efficiency or to prevent contamination.

e. Replacement of meters and installation of new metering systems.

(4) Comprehensive land-use plan. – A project that is located in a city or county that has adopted or has taken significant steps to adopt a comprehensive land-use plan under Article 18 of Chapter 153A of the General Statutes or Article 19 of Chapter 160A of the General Statutes has priority over a project located in a city or county that has not adopted a plan or has not taken steps to do so. The existence of a plan has more priority than steps taken to adopt a plan, such as adoption of a zoning ordinance. A plan that exceeds the minimum State standards for protection of water resources has more priority than one that does not. A project is considered to be located in a city or county if it is located in whole or in part in that unit. A land-use plan is not considered a comprehensive land-use plan unless it has provisions that protect existing water uses and ensure compliance with water quality standards and classifications in all waters of the State affected by the plan.

(5) Flood hazard ordinance. – A project that is located in a city or county that has adopted a flood hazard prevention ordinance under G.S. 143-215.54A has priority over a project located in a city or county that has not adopted an ordinance. A plan that exceeds the minimum standards under G.S. 143-215.54A for a flood hazard prevention ordinance has more priority than one that does not. A project is considered to be located in a city or county if it is located in whole or in part in that unit. If no part of the service area of a project is located within the 100-year floodplain, the project has the same priority under this subdivision as if it were located in a city or county that has adopted a flood hazard prevention ordinance. The most recent maps prepared pursuant to the National Flood Insurance Program or approved by the Department determine whether an area is within the 100-year floodplain.

(6) Sound management. – A project submitted by a local government unit that has demonstrated a willingness and ability to meet its responsibilities through sound fiscal policies and efficient operation and management has priority.

(6a) Asset management plan. – A project submitted by a local government unit with more than 1,000 service connections that has developed and is implementing an asset management plan has priority over a project submitted by a local government unit with more than 1,000 service connections that has not developed or is not implementing an asset management plan.

(7) Capital improvement plan. – A project that implements the applicant's capital improvement plan for the wastewater system or public water system it manages has priority over a project that does not implement a capital improvement plan. To receive priority, a capital improvement plan must set out the applicant's expected water infrastructure needs for at least 10 years.

(8) Coastal habitat protection. – A project that implements a recommendation of a Coastal Habitat Protection Plan adopted by the Environmental Management Commission, the Coastal Resources Commission, and the Marine Fisheries Commission pursuant to G.S. 143B-279.8 has priority over other projects that affect counties subject to that Plan.

(9) High-unit-cost threshold. – A high-unit-cost project has priority over projects that are not high-unit-cost projects. The priority given to a high-unit-cost project shall be set using a sliding scale based on the amount by which the applicant exceeds the high-unit-cost threshold.

(10) Regionalization. – A project to provide for the planning of regional public water and wastewater systems, to provide for the orderly coordination of local actions relating to public water and wastewater systems, or to help realize economies of scale in regional public water and wastewater systems through consolidation, merger, or interconnection of public water and wastewater systems has priority. A project that demonstrates it is not practicable for the project to pursue regionalization based on topography or other factors shall be given the same priority for regionalization as a project that includes regionalization.

(11) State water supply plan. – A project that addresses a potential conflict between local plans or implements a measure in which local water supply plans could be better coordinated, as identified in the State water supply plan pursuant to G.S. 143-355(m), has priority.

(12) Water conservation measures for drought. – A project that includes adoption of water conservation measures by a local government unit that are more stringent than the minimum water conservation measures required pursuant to G.S. 143-355.2 has priority."

SECTION 3. This act becomes effective July 1, 2010, and applies to applications for loans and grants submitted on or after that date.

HOUSE BILL 1744:
Modify Water Funding Priorities

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	June 8, 2010
Introduced by:	Reps. Crawford, Gillespie, Owens, Tarleton	**Prepared by:**	Tim Dodge
Analysis of:	Second Edition		Committee Counsel

SUMMARY: ***House Bill 1744 would modify the common criteria applicable to loans and grants for water and wastewater infrastructure projects as follows: (1) clarify that leaking waterlines are a priority for both water quantity and water quality purposes; (2) include asset management planning, regionalization, state water supply planning, and drought management in the list of common criteria that receive priority for funding; (3) establish a sliding scale system for determining the priority given to projects that exceed the high unit cost threshold; and (4) provide that a project that demonstrates it is not practicable for the project to pursue regionalization based on topography or other factors shall be given the same priority for regionalization as a project that includes regionalization.***

House Bill 1744 was recommended by the Legislative Study Commission on Water and Wastewater Infrastructure. As introduced, this bill was identical to S1293, as introduced by Sen. Hoyle, which is currently in Senate Agriculture/Environment/Natural Resources.

CURRENT LAW: G.S. 159G-23 establishes common criteria that apply to loans and grants from the following State agencies:

- The Drinking Water Reserve administered by the Public Water Supply Section of the Division of Environmental Health of the North Carolina Department of Environment and Natural Resources (DENR).
- The Wastewater Reserve administered by the Construction Grants and Loans Section of the Division of Water Quality of DENR.
- The Clean Water Management Trust Fund.[1]
- The North Carolina Rural Economic Development Center (Rural Center).[2]

The common criteria include the following:

1. Public Necessity.
2. Flood Hazard Ordinance.
3. Effect on Impaired Waters.

[1] G.S. 113A-254 provides that "the common criteria for water projects set in G.S. 159G-23 and the criteria set out in this section ... apply to wastewater collection system projects, wastewater treatment works projects, and stormwater quality projects [seeking funding from the Clean Water Management Trust Fund]."

[2] See, e.g., S.L. 2008-107, Sec. 13.8.(f), and S.L. 2007-323, Sec. 13.13A.(f), which both read: "The criteria in G.S. 159G-23, the criteria set out in this section, and any other criteria established by the Board of Directors of the Rural Center shall apply to a grant provided under this section."

4. Sound Management.
5. Efficiency.
6. Capital Improvement Plan.
7. Comprehensive Land Use Plan.
8. Coastal Habitat Protection.

In addition, each of the funding agencies also develops separate funding criteria for their programs, based on additional criteria provided by federal agencies, the General Assembly, or by their governing boards.

BILL ANALYSIS: HB 1744 amends G.S. 159G-23 to modify the common criteria applicable to loans and grants for water and wastewater infrastructure projects as follows:

- Leaking waterlines: The bill clarifies that the repair or replacement of leaking waterlines is a priority in situations where the line repair or replacement is being done to either improve water conservation and efficiency or to prevent contamination.
- Asset management plans: The bill defines an asset management to mean "the strategic and systematic application of management practices applied to the infrastructure assets of a local government unit in order to minimize the total costs of acquiring, operating, maintaining, improving, and replacing the assets while at the same time maximizing the efficiency, reliability, and value of the assets." The bill then provides that a project submitted by a local government unit with more than 1,000 service connections that has developed and is implementing an asset management plan has priority over a project submitted by a local government unit with more than 1,000 service connections that has not developed or is not implementing an asset management plan.
- High-unit-cost threshold: The bill establishes that a high-unit cost project has priority over non-high-unit-cost projects. In addition, the bill establishes a sliding scale system for determining the priority given to projects that exceed the high unit cost threshold.[3]
- Regionalization: The bill gives priority to those projects that promote the consolidation, merger, or interconnection of water systems. A project that demonstrates it is not practicable for the project to pursue regionalization based on topography or other factors, however, shall not be penalized but is instead given the same priority for regionalization as a project that includes regionalization.
- State water supply plan: G.S. 143-355(l) directs each local government unit in the State to develop and submit a local water supply plan to the Department of Environment and Natural Resources (DENR) at least once every five years. Pursuant to G.S. 143-355(m), DENR then utilizes the information contained in the local water supply plans to create a State water supply plan. DENR is directed to identify potential conflicts among the various local plans and ways in which local water supply programs could be better coordinated. The bill gives priority to a

[3] The high-unit-cost threshold is defined in G.S. 159G-20(10) as either 1.5% of the median household income in an area that receives both water and sewer service, or 0.75% of the median household income in an area that receives only water service or only sewer service. The median household income is based on data from the most recent federal decennial census and updated by the U.S. Department of Housing and Urban Development's annual estimated income adjustment factors.

project that addresses a potential conflict between local plans or implements a measure in which local water supply plans could be better coordinated.

- Water conservation measures for drought: G.S. 143-355.2 requires local government units to adopt certain minimum water conservation measures to respond to drought or other water shortage conditions, but subsection (h) allows local governments to adopt more stringent standards. The bill gives priority to those projects that adopt more stringent water conservation measures.

EFFECTIVE DATE: The bill would become effective July 1, 2010, and apply to applications for loans and grants submitted on or after that date.

BACKGROUND: House Bill 1744 was recommended by the Legislative Study Commission on Water and Wastewater Infrastructure. The Study Commission, established in Sec. 43 of S.L. 2009-574, was charged with, among other items, reviewing "infrastructure funding priorities currently set out in State law to determine whether the priorities appropriately reflect the State's most pressing needs in light of future growth projections, an recommend[ing] changes to infrastructure funding priorities and appropriations processes to ensure that funds are used to meet the State's most pressing needs." (§43.3(4) and(5)).

H1744-SMSY-16(e2) v1

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representatives Harrison, Tarleton, and Underhill (Vice-Chairs) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒Committee Substitute for

HB 1744 A BILL TO BE ENTITLED AN ACT TO MODIFY THE COMMON CRITERIA APPLICABLE TO LOANS AND GRANTS FOR WATER AND WASTEWATER INFRASTRUCTURE PROJECTS TO: (1) CLARIFY THAT LEAKING WATERLINES ARE A PRIORITY FOR BOTH WATER QUANTITY AND WATER QUALITY PURPOSES; (2) INCLUDE ASSET MANAGEMENT PLANNING, REGIONALIZATION, STATE WATER SUPPLY PLANNING, AND DROUGHT MANAGEMENT IN THE LIST OF COMMON CRITERIA THAT RECEIVE PRIORITY FOR FUNDING; (3) ESTABLISH A SLIDING SCALE SYSTEM FOR DETERMINING THE PRIORITY GIVEN TO PROJECTS THAT EXCEED THE HIGH-UNIT-COST THRESHOLD; AND (4) PROVIDE THAT A PROJECT THAT DEMONSTRATES IT IS NOT PRACTICABLE FOR THE PROJECT TO PURSUE REGIONALIZATION BASED ON TOPOGRAPHY OR OTHER FACTORS SHALL BE GIVEN THE SAME PRIORITY FOR REGIONALIZATION AS A PROJECT THAT INCLUDES REGIONALIZATION, AS RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON WATER AND WASTEWATER INFRASTRUCTURE.

☒ With a favorable report.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

HOUSE BILL 1765*

Short Title:	Amend IBT Enforcement and Notice.	(Public)
Sponsors:	Representatives Gibson, Harrison (Primary Sponsors); and Hughes.	
Referred to:	Environment and Natural Resources, if favorable, Finance.	

May 18, 2010

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO USE INJUNCTIVE RELIEF TO ENSURE COMPLIANCE WITH INTERBASIN TRANSFER LAWS AND TO PROVIDE THAT AN APPLICANT FOR AN INTERBASIN TRANSFER CERTIFICATE SHALL PAY THE COSTS ASSOCIATED WITH ALL REQUIRED PUBLIC HEARINGS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.6C reads as rewritten:

"**§ 143-215.6C. Enforcement procedures; injunctive relief.**

Whenever the Department has reasonable cause to believe that any person has violated or is threatening to violate any of the provisions of ~~this Part,~~Part 1, Part 1A, or Part 2A of this Article or G.S. 143-355(k) relating to water use information; any of the terms of any permit issued pursuant to ~~this Part,~~ Part 1, Part 1A, or Part 2A of this Article; or a rule implementing ~~this Part,~~ Part 1, Part 1A, or Part 2A of this Article or G.S. 143-355(k) relating to water use information, the Department may, either before or after the institution of any other action or proceeding authorized by this Part, request the Attorney General to institute a civil action in the name of the State upon the relation of the Department for injunctive relief to restrain the violation or threatened violation and for such other and further relief in the premises as the court shall deem proper. The Attorney General may institute such action in the superior court of the county in which the violation occurred or may occur or, in his discretion, in the superior court of the county in which the person responsible for the violation or threatened violation resides or has his or its principal place of business. Upon a determination by the court that the alleged violation ~~of the provisions of this Part or the regulations of the Commission~~ has occurred or is threatened, the court shall grant the relief necessary to prevent or abate the violation or threatened violation. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from any penalty prescribed for violation of ~~this Part.~~ Part 1, Part 1A, or Part 2A of this Article or G.S. 143-355(k) relating to water use information.~~For purposes of this section references to "this Part" include Part 1A of this Article and G.S. 143-355(k) relating to water use information.~~"

SECTION 2. G.S. 143-215.22L(e) reads as rewritten:

"(e) Public Hearing on the Draft Environmental Document. – The Commission shall hold a public hearing on the draft environmental document for a proposed interbasin transfer after giving at least 30 days' written notice of the hearing in the Environmental Bulletin and as provided in subdivisions (2) and (3) of subsection (c) of this section. The notice shall indicate where a copy of the environmental document can be reviewed and the procedure to be followed by anyone wishing to submit written comments and questions on the environmental document.

The Commission shall prepare a record of all comments and written responses to questions posed in writing. The record shall include complete copies of scientific or technical comments related to the potential impact of the interbasin transfer. The Commission shall accept written comment on the draft environmental documents for a minimum of 30 days following the last public hearing. The applicant who petitions the Commission for a certificate under this section shall pay the costs associated with the notice and public hearing on the draft environmental document."

SECTION 3. G.S. 143-215.22L(j) reads as rewritten:

"(j) Public Hearing on the Draft Determination. – Within 60 days of the issuance of the draft determination as provided in subsection (i) of this section, the Commission shall hold public hearings on the draft determination. At least one hearing shall be held in the affected area of the source river basin, and at least one hearing shall be held in the affected area of the receiving river basin. In determining whether more than one public hearing should be held within either the source or receiving river basins, the Commission shall consider the differing or conflicting interests that may exist within the river basins, including the interests of both upstream and downstream parties potentially affected by the proposed transfer. The public hearings shall be conducted by one or more hearing officers appointed by the Chair of the Commission. The hearing officers may be members of the Commission or employees of the Department. The Commission shall give at least 30 days' written notice of the public hearing as provided in subsection (c) of this section. The Commission shall accept written comment on the draft determination for a minimum of 30 days following the last public hearing. The Commission shall prepare a record of all comments and written responses to questions posed in writing. The record shall include complete copies of scientific or technical comments related to the potential impact of the interbasin transfer. The applicant who petitions the Commission for a certificate under this section shall pay the costs associated with the notice and public hearing on the draft determination."

SECTION 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1765*
PROPOSED COMMITTEE SUBSTITUTE H1765-CSSB-87 [v.3]

5/31/2010 12:59:12 PM

Short Title: Amend IBT Enforcement and Notice. (Public)

Sponsors:

Referred to:

May 18, 2010

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO USE INJUNCTIVE RELIEF TO ENSURE COMPLIANCE WITH WATER WITHDRAWAL AND WATER TRANSFER LAWS AND TO PROVIDE THAT AN APPLICANT FOR AN INTERBASIN TRANSFER CERTIFICATE SHALL PAY THE COSTS ASSOCIATED WITH ALL REQUIRED PUBLIC HEARINGS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.6C reads as rewritten:

"**§ 143-215.6C. Enforcement procedures; injunctive relief.**

Whenever the Department has reasonable cause to believe that any person has violated or is threatening to violate any of the provisions of ~~this Part,~~Part 1, Part 1A, or Part 2A of this Article or G.S. 143-355(k) relating to water use information; any of the terms of any permit issued pursuant to ~~this Part,~~ Part 1, Part 1A, or Part 2A of this Article; or a rule implementing ~~this Part,~~ Part 1, Part 1A, or Part 2A of this Article or G.S. 143-355(k) relating to water use information, the Department may, either before or after the institution of any other action or proceeding authorized by this Part, request the Attorney General to institute a civil action in the name of the State upon the relation of the Department for injunctive relief to restrain the violation or threatened violation and for such other and further relief in the premises as the court shall deem proper. The Attorney General may institute such action in the superior court of the county in which the violation occurred or may occur or, in his discretion, in the superior court of the county in which the person responsible for the violation or threatened violation resides or has his or its principal place of business. Upon a determination by the court that the alleged violation ~~of the provisions of this Part or the regulations of the Commission~~ has occurred or is threatened, the court shall grant the relief necessary to prevent or abate the violation or threatened violation. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from any penalty prescribed for violation of ~~this Part.~~ Part 1, Part 1A, or Part 2A of this Article or G.S. 143-355(k) relating to water use information.~~For purposes of this section references to "this Part" include Part 1A of this Article and G.S. 143-355(k) relating to water use information.~~"

SECTION 2. G.S. 143-215.22L(e) reads as rewritten:

"(e) Public Hearing on the Draft Environmental Document. – The Commission shall hold a public hearing on the draft environmental document for a proposed interbasin transfer after giving at least 30 days' written notice of the hearing in the Environmental Bulletin and as

provided in subdivisions (2) and (3) of subsection (c) of this section. The notice shall indicate where a copy of the environmental document can be reviewed and the procedure to be followed by anyone wishing to submit written comments and questions on the environmental document. The Commission shall prepare a record of all comments and written responses to questions posed in writing. The record shall include complete copies of scientific or technical comments related to the potential impact of the interbasin transfer. The Commission shall accept written comment on the draft environmental ~~documents~~ document for a minimum of 30 days following the last public hearing. The applicant who petitions the Commission for a certificate under this section shall pay the costs associated with the notice and public hearing on the draft environmental document."

SECTION 3. G.S. 143-215.22L(j) reads as rewritten:

"(j) Public Hearing on the Draft Determination. – Within 60 days of the issuance of the draft determination as provided in subsection (i) of this section, the Commission shall hold public hearings on the draft determination. At least one hearing shall be held in the affected area of the source river basin, and at least one hearing shall be held in the affected area of the receiving river basin. In determining whether more than one public hearing should be held within either the source or receiving river basins, the Commission shall consider the differing or conflicting interests that may exist within the river basins, including the interests of both upstream and downstream parties potentially affected by the proposed transfer. The public hearings shall be conducted by one or more hearing officers appointed by the Chair of the Commission. The hearing officers may be members of the Commission or employees of the Department. The Commission shall give at least 30 days' written notice of the public hearing as provided in subsection (c) of this section. The Commission shall accept written comment on the draft determination for a minimum of 30 days following the last public hearing. The Commission shall prepare a record of all comments and written responses to questions posed in writing. The record shall include complete copies of scientific or technical comments related to the potential impact of the interbasin transfer. The applicant who petitions the Commission for a certificate under this section shall pay the costs associated with the notice and public hearing on the draft determination."

SECTION 4. This act is effective when it becomes law. Sections 2 and 3 of this act apply to the costs, including costs of notice, associated with public hearings held on or after the date this act becomes effective.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1765*
PROPOSED COMMITTEE SUBSTITUTE H1765-CSSB-87 [v.5]

6/8/2010 7:44:26 AM

Short Title: Amend IBT Notice. (Public)

Sponsors:

Referred to:

May 18, 2010

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT AN APPLICANT FOR AN INTERBASIN TRANSFER CERTIFICATE SHALL PAY THE COSTS ASSOCIATED WITH ALL REQUIRED PUBLIC HEARINGS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.22L(e) reads as rewritten:

"(e) Public Hearing on the Draft Environmental Document. – The Commission shall hold a public hearing on the draft environmental document for a proposed interbasin transfer after giving at least 30 days' written notice of the hearing in the Environmental Bulletin and as provided in subdivisions (2) and (3) of subsection (c) of this section. The notice shall indicate where a copy of the environmental document can be reviewed and the procedure to be followed by anyone wishing to submit written comments and questions on the environmental document. The Commission shall prepare a record of all comments and written responses to questions posed in writing. The record shall include complete copies of scientific or technical comments related to the potential impact of the interbasin transfer. The Commission shall accept written comment on the draft environmental ~~documents~~ document for a minimum of 30 days following the last public hearing. The applicant who petitions the Commission for a certificate under this section shall pay the costs associated with the notice and public hearing on the draft environmental document."

SECTION 2. G.S. 143-215.22L(j) reads as rewritten:

"(j) Public Hearing on the Draft Determination. – Within 60 days of the issuance of the draft determination as provided in subsection (i) of this section, the Commission shall hold public hearings on the draft determination. At least one hearing shall be held in the affected area of the source river basin, and at least one hearing shall be held in the affected area of the receiving river basin. In determining whether more than one public hearing should be held within either the source or receiving river basins, the Commission shall consider the differing or conflicting interests that may exist within the river basins, including the interests of both upstream and downstream parties potentially affected by the proposed transfer. The public hearings shall be conducted by one or more hearing officers appointed by the Chair of the Commission. The hearing officers may be members of the Commission or employees of the Department. The Commission shall give at least 30 days' written notice of the public hearing as provided in subsection (c) of this section. The Commission shall accept written comment on the draft determination for a minimum of 30 days following the last public hearing. The

Commission shall prepare a record of all comments and written responses to questions posed in writing. The record shall include complete copies of scientific or technical comments related to the potential impact of the interbasin transfer. The applicant who petitions the Commission for a certificate under this section shall pay the costs associated with the notice and public hearing on the draft determination."

SECTION 3. This act is effective when it becomes law and applies to the costs, including costs of notice, associated with public hearings held on or after that date.

HOUSE BILL 1765:
Amend IBT Enforcement and Notice

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Finance	**Date:**	June 8, 2010
Introduced by:	Representatives Gibson and Harrison	**Prepared by:**	Jeff Hudson Committee Counsel
Analysis of:	PCS to First Edition H1765-CSSB-87 [v.5]		

SUMMARY: ***The Proposed Committee Substitute for House Bill 1765 would provide that an applicant for an interbasin transfer certificate must pay the costs associated with all public hearings.***

House Bill 1765 is a recommendation of the Environmental Review Commission.

[As introduced, this bill was identical to S1169, as introduced by Sen. Clodfelter, which is currently in Senate Agriculture/Environment/Natural Resources.]

CURRENT LAW:

Under current law, the applicant for an interbasin transfer certificate must provide for and pay the costs associated with its notice of intent to file a petition for an interbasin transfer and related public hearings. In 2008, the General Assembly added requirements for public hearings to be held on the adequacy of environmental documents prepared pursuant to the interbasin transfer certification process and on the draft determination on whether to grant the interbasin transfer certificate. The 2008 legislation did not specify who should pay the costs associated with the new public hearing requirements.

BILL ANALYSIS:

The Proposed Committee Substitute for House Bill 1765 (PCS) would provide that the applicant for the interbasin certificate would pay the notice and public hearing costs associated with the environmental documents and draft determination.

The PCS no longer contains provisions from the First Edition of House Bill 1765 that would have authorized the Department of Environment and Natural Resources (DENR) to use injunctive relief to require compliance with water withdrawal and water transfer laws, including interbasin transfer laws.

EFFECTIVE DATE: This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1765*
PROPOSED COMMITTEE SUBSTITUTE H1765-PCS11136-SB-87

Short Title: Amend IBT Notice. (Public)

Sponsors:

Referred to:

May 18, 2010

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT AN APPLICANT FOR AN INTERBASIN TRANSFER CERTIFICATE SHALL PAY THE COSTS ASSOCIATED WITH ALL REQUIRED PUBLIC HEARINGS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.22L(e) reads as rewritten:

"(e) Public Hearing on the Draft Environmental Document. – The Commission shall hold a public hearing on the draft environmental document for a proposed interbasin transfer after giving at least 30 days' written notice of the hearing in the Environmental Bulletin and as provided in subdivisions (2) and (3) of subsection (c) of this section. The notice shall indicate where a copy of the environmental document can be reviewed and the procedure to be followed by anyone wishing to submit written comments and questions on the environmental document. The Commission shall prepare a record of all comments and written responses to questions posed in writing. The record shall include complete copies of scientific or technical comments related to the potential impact of the interbasin transfer. The Commission shall accept written comment on the draft environmental ~~documents~~ document for a minimum of 30 days following the last public hearing. The applicant who petitions the Commission for a certificate under this section shall pay the costs associated with the notice and public hearing on the draft environmental document."

SECTION 2. G.S. 143-215.22L(j) reads as rewritten:

"(j) Public Hearing on the Draft Determination. – Within 60 days of the issuance of the draft determination as provided in subsection (i) of this section, the Commission shall hold public hearings on the draft determination. At least one hearing shall be held in the affected area of the source river basin, and at least one hearing shall be held in the affected area of the receiving river basin. In determining whether more than one public hearing should be held within either the source or receiving river basins, the Commission shall consider the differing or conflicting interests that may exist within the river basins, including the interests of both upstream and downstream parties potentially affected by the proposed transfer. The public hearings shall be conducted by one or more hearing officers appointed by the Chair of the Commission. The hearing officers may be members of the Commission or employees of the Department. The Commission shall give at least 30 days' written notice of the public hearing as provided in subsection (c) of this section. The Commission shall accept written comment on the draft determination for a minimum of 30 days following the last public hearing. The

Commission shall prepare a record of all comments and written responses to questions posed in writing. The record shall include complete copies of scientific or technical comments related to the potential impact of the interbasin transfer. The applicant who petitions the Commission for a certificate under this section shall pay the costs associated with the notice and public hearing on the draft determination."

SECTION 3. This act is effective when it becomes law and applies to the costs, including costs of notice, associated with public hearings held on or after that date.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representatives Harrison, Tarleton, Underhill (Vice-Chairs) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒Committee Substitute for
HB 1765 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE COALITIONS OF LOCAL GOVERNMENTS TO JOINTLY IMPLEMENT WATER QUALITY PROTECTION PLANS FOR THE FALLS LAKE WATERSHED; TO PROVIDE THAT AN APPLICANT FOR AN INTERBASIN TRANSFER CERTIFICATE SHALL PAY THE COSTS ASSOCIATED WITH ALL REQUIRED PUBLIC HEARINGS; TO CREATE A TEMPORARY, STREAMLINED INTERBASIN TRANSFER CERTIFICATION PROCESS FOR INTERBASIN TRANSFERS IN THE CENTRAL COASTAL PLAIN CAPACITY USE AREA AND INTO ISOLATED RIVER BASINS; TO LIMIT TRANSFERS OF WATER FROM THE CATAWBA RIVER BASIN UNDER THE CONCORD AND KANNAPOLIS INTERBASIN TRANSFER CERTIFICATE; AND TO PROVIDE THAT BENEFICIAL REUSE OF WASTEWATER INCLUDES CERTAIN FACILITIES THAT REQUIRE RELOCATION OF A DISCHARGE FROM ONE RECEIVING STREAM TO ANOTHER.

☒ With recommendation that the House do not concur.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

_____ On motion of Representative_____, Committee Amendment No.(s) ___ is/are adopted by EV (_____).

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 887
PROPOSED COMMITTEE SUBSTITUTE S887-PCS85231-RG-26

Short Title: Amend Electronics Recycling Law. (Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO MAKE FURTHER SUBSTANTIVE, CLARIFYING, TECHNICAL, AND CONFORMING AMENDMENTS TO THE LAWS GOVERNING THE MANAGEMENT OF DISCARDED COMPUTER EQUIPMENT AND DISCARDED TELEVISIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-309.91 reads as rewritten:

"**§ 130A-309.91. (Effective January 1, 2010) Definitions.**

As used in this Part, the following definitions apply:

(1) Business entity. – Defined in G.S. 55-1-40(2a).

(2) Computer equipment. – Any desktop ~~central processing unit, any laptop~~ computer, notebook computer, the monitor or video display unit for a computer system, and the keyboard, mice, and other peripheral equipment. Computer equipment does not include a printing device such as a printer, a scanner, a combination print-scanner-fax machine, or other device designed to produce hard paper copies from a computer; an automated typewriter, professional workstation, servers, ICI device, ICI system, mobile telephone, portable handheld calculator, portable digital assistant (PDA), MP3 player, or other similar device; an automobile; a television; a household appliance; a large piece of commercial or industrial equipment, such as commercial medical equipment, that contains a cathode ray tube, a cathode ray tube device, a flat panel display, or similar video display device that is contained within, and is not separate from, the larger piece of equipment, or other medical devices as that term is defined under the federal Food, Drug, and Cosmetic Act.

(2a) Computer equipment manufacturer. – A person that manufactures computer equipment sold under its own brand or label; sells or has sold under its own brand or label computer equipment produced by other suppliers; imports or has imported into the United States computer equipment that was manufactured outside of the United States; or owns or has owned a brand that it licenses or has licensed to another person for use on computer equipment. ~~Manufacturer~~ Computer equipment manufacturer includes a business entity that acquires another business entity that manufactures or has manufactured computer equipment. Computer equipment manufacturer does not include any existing person that manufactures computer equipment that

the Department determines is of such a character that the computer equipment would not be used by consumers, unless such a manufacturer also manufactures or has manufactured one or more kinds of computer equipment that are of such a character as to be used by consumers, in which event the person is a computer equipment manufacturer under this subdivision. Computer equipment manufacturer does not include any existing person who both:

a. Owns and licenses the brand appearing on the computer equipment.

b. Has not manufactured or sold the computer equipment.

(2b) Covered device. – Computer equipment and televisions. The term does not include a device that is:

a. Part of a motor vehicle or any component of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle.

b. (i) Physically a part of or integrated within a larger piece of equipment designed and intended for use in an industrial, governmental, commercial, research and development, or medical setting; (ii) equipment used for diagnostic, monitoring, or other medical products as that term is defined under the Federal Food, Drug, and Cosmetic Act; (iii) equipment used for security, sensing, monitoring, antiterrorism purposes, or emergency services purposes.

c. Contained within a household appliance, including, but not limited to, a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, air purifier, or exercise equipment.

(2c) Desktop computer. – An electronic, magnetic, optical, electrochemical, or other high-speed data processing device that has all of the following features:

a. Performs logical, arithmetic, and storage functions for general purpose needs that are met through interaction with a number of software programs contained in the computer.

b. Is not designed to exclusively perform a specific type of limited or specialized application.

c. Achieves human interface through a stand-alone keyboard, stand-alone monitor or other display unit, and a stand-alone mouse or other pointing device.

d. Is designed for a single user.

e. Has a main unit that is intended to be persistently located in a single location, often on a desk or on the floor.

(3) Discarded computer equipment. – Computer equipment that is solid waste.

(3a) Discarded television. – A television that is solid waste.

(4) Discarded computer equipment or television collector. – A municipal or county government, nonprofit agency, recycler, or retailer that accepts discarded computer equipment or a television from ~~the public~~occupants of single detached dwelling units and single units in multiple dwelling units for any such occupant who has used a covered device primarily for personal or home business use.

(5) Recodified as G.S. 130A-309.91(2a).

(5a) Market share. – A television manufacturer's obligation to recycle discarded televisions. A television manufacturer's market share is the television

manufacturer's prior year's sales of televisions as calculated by the Department pursuant to G.S. 130A-309.95(4) divided by all manufacturers' prior year's sales for all televisions as calculated by the Department pursuant to G.S. 130A-309.95(4). Market share may be expressed as a percentage, a fraction, or a decimal fraction.

(5b) Notebook computer. – An electronic, magnetic, optical, electrochemical, or other high-speed data processing device that has all of the following features:

a. Performs logical, arithmetic, or storage functions for general purpose needs that are met through interaction with a number of software programs contained in the computer.

b. Is not designed to exclusively perform a specific type of limited or specialized application.

c. Achieves human interface through a keyboard, video display greater than four inches in size, and mouse or other pointing device, all of which are contained within the construction of the unit that comprises the computer.

d. Is able to be carried as one unit by an individual.

e. Is able to use external, internal, or batteries for a power source.

Notebook computer includes those that have a supplemental stand-alone interface device attached to the notebook computer. Notebook computer does not include a portable handheld calculator, a portable digital assistant (PDA), or similar specialized device. A notebook computer is sometimes referred to as a laptop computer.

(6) ~~Orphan discarded computer equipment. – Any discarded computer equipment for which a manufacturer cannot be identified or for which the manufacturer is no longer in business and has no successor in interest.~~

(6a) Recover. – The process of reusing or recycling covered devices.

(6b) Recycle. – The processing, including disassembling, dismantling, and shredding, of covered devices or their components to recover a usable product. Recycle does not include any process that results in the incineration of the product.

(6c) Recycler. – A person that recycles covered devices.

(7) Retailer. – A person that sells computer equipment or televisions in the State to a consumer. Retailer includes a ~~manufacturer of computer equipment or televisions~~ computer equipment manufacturer or a television manufacturer that sells directly to a consumer through any means, including transactions conducted through sales outlets, catalogs, the Internet, or any similar electronic means, but does not include a person that sells computer equipment or televisions to a distributor or retailer through a wholesale transaction.

(8) Television. – Any electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying of television or video programming via broadcast, cable, or satellite, including, without limitation, any direct view or projection television with a viewable screen of 9 inches or larger whose display technology is based on cathode ray tube (CRT), plasma, liquid crystal (LCD), digital light processing (DLP), liquid crystal on silicon (LCOS), silicon crystal reflective display (SXRD), light emitting diode (LED), or similar technology marketed and intended for use by a consumer primarily for personal purposes. The term does not include computer equipment.

(9) Television manufacturer. – A person that: (i) manufactures for sale in this State a television under a brand that it licenses or owns; (ii) manufactures for sale in this State a television without affixing a brand; (iii) resells into this State a television under a brand it owns or licenses produced by other suppliers, including retail establishments that sell a television under a brand that the retailer owns or licenses; (iv) imports into the United States or exports from the United States a television for sale in this State; (v) sells at retail a television acquired from an importer that is the manufacturer as described in sub-subdivision (iv) of this subdivision, and the retailer elects to register in lieu of the importer as the manufacturer of those products; (vi) manufactures a television for or supplies a television to any person within a distribution network that includes wholesalers or retailers in this State and that benefits from the sale in this State of the television through the distribution network; or (vii) assumes the responsibilities and obligations of a television manufacturer under this Part. In the event the television manufacturer is one that manufactures, sells, or resells under a brand it licenses, the licensor or brand owner of the brand ~~shall not be considered to be~~is not a television manufacturer under (i) or (iii) of this subdivision."

SECTION 2. G.S. 130A-309.93(c) reads as rewritten:

"(c) Computer Equipment Recycling Plan. – Each computer equipment manufacturer ~~of computer equipment~~ shall develop and submit to the Department a plan for reuse or recycling of discarded computer equipment in the State produced by the manufacturer. The manufacturer's responsibility under this Part and its plan under this section are limited to reusing or recycling computer equipment that is discarded by occupants of a single detached dwelling unit or a single unit of a multiple dwelling unit who have used the computer equipment primarily for personal or home business use. The manufacturer shall submit a proposed plan to the Department within 120 days of registration as required by subsection (a) of this section. The plan shall:

(1) Describe any direct take-back program to be implemented by the manufacturer, including mail-back programs and collection events.

(2) Provide that the manufacturer will take responsibility for discarded computer equipment it manufactured.

(3) Include a detailed description as to how the manufacturer will implement and finance the plan.

(4) Provide for environmentally sound management practices to transport and recycle discarded computer equipment.

(5) Describe the performance measures that will be used by the manufacturer to document recovery and recycling rates for discarded computer equipment. The calculation of recycling rates shall include the amount of discarded computer equipment managed under the manufacturer's program divided by the amount of computer equipment sold by the manufacturer in North Carolina.

(6) Describe in detail how the manufacturer will provide for transportation of discarded computer equipment at no cost from discarded computer equipment collectors.

(7) Describe in detail how the manufacturer will fully cover the costs of processing discarded computer equipment received from discarded computer equipment collectors.

(8) Include a public education plan on the laws governing the recycling and reuse of discarded computer equipment under this Part and on the methods available to consumers to comply with those requirements."

SECTION 3. G.S. 130A-309.93 is amended by adding a new subsection to read:

"(h) Data Security. – Computer equipment manufacturers shall not be liable in any way for data or other information left on a covered device that is collected or recovered."

SECTION 4. G.S. 130A-309.93A(c) reads as rewritten:

"(c) The obligation to recycle televisions shall be allocated to each television manufacturer based on the television manufacturer's market share. A television manufacturer must annually recycle or arrange for the recycling of its market share of televisions pursuant to this section. The manufacturer's obligation to recycle its market share of televisions is limited to televisions that are discarded by occupants of a single detached dwelling unit or a single unit of a multiple dwelling unit who have used the televisions primarily for personal or home business use."

SECTION 5. G.S. 130A-309.93A is amended by adding a new subsection to read:

"(h) Data Security. – Television manufacturers shall not be liable in any way for data or other information left on a covered device that is collected or recovered."

SECTION 6. G.S. 130A-309.93B is amended by adding a new subsection to read:

"(d) A retailer shall not be liable in any way for data or other information left on a covered device that is collected or recovered."

SECTION 7. G.S. 130A-309.94 reads as rewritten:

"**§ 130A-309.94. Requirements for discarded computer equipment and television collectors.**

(a) Each discarded computer equipment and television collector shall ensure that discarded computer equipment and televisions received by the collector are properly stored, and either held for pickup by a manufacturer or delivered to a facility designated by a manufacturer.

(b) A discarded computer equipment and television collector shall not be liable in any way for data or other information left on a covered device that is collected or recovered."

SECTION 8. G.S. 147-33.104 reads as rewritten:

"**§ 147-33.104. (Effective July 1, 2010, until January 1, 2011) Purchase by State agencies and governmental entities of certain computer equipment prohibited.**

(a) The exemptions set out in G.S. 147-33.80 do not apply to this section.

(b) No State agency, political subdivision of the State, or other public body shall ~~purchase computer equipment,~~enter into any contract with a computer equipment manufacturer, as defined in G.S. 130A-309.91, ~~from any manufacturer determined not to be~~that the Secretary determines is not in compliance with the requirements of G.S. 130A-309.93 or with a television manufacturer, as defined in G.S. 130A-309.91, that the Secretary determines is not in compliance with the requirements of G.S. 130A-309.93A as determined from the list provided by the Department of Environment and Natural Resources pursuant to G.S. 130A-309.95(1). The Secretary shall issue written findings upon a determination of noncompliance. A determination of noncompliance by the Secretary is reviewable under Article 3 of Chapter 150B of the General Statutes.

(c) The Office of Information Technology Services shall make the list available to political subdivisions of the State and other public bodies. A computer equipment manufacturer that is not in compliance with the requirements of G.S. 130A-309.93 and a television manufacturer that is not in compliance with the requirements of G.S. 130A-309.93A shall not ~~sell or offer for sale computer equipment to~~be awarded a contract by the State, a political subdivision of the State, or other public body.

(d) In considering bids for any State contract by any computer equipment manufacturer or any television manufacturer, as defined in G.S. 130A-309.91, the State agency, political subdivision of the State, or other public body shall, in addition to any other preferences provided elsewhere under State law, give preference to a computer equipment manufacturer and a television manufacturer that has a program to recover other manufacturers' computer and

television equipment, including, but not limited to, collection events, recycling grants, and manufacturer initiatives to take back any brand of computer equipment or television equipment with the purchase of a similar product."

SECTION 9. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 887

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

S887-AMH-17 [v.2]

Comm. Sub. [YES]
Amends Title [NO]
S887-CSRIxf-60

Date _____, 2010

Representative K. Alexander

moves to amend the proposed committee substitute on page ~~2~~ 3, lines ~~49-51~~ 3-5 by rewriting those lines to read:

"(4) Consumer. – Any of the following:

a. An occupant of a single detached dwelling unit or a single unit contained within a multiple dwelling unit who used a covered device primarily for personal or home business use.

b. a business or non-profit organization with fewer than fifty (50) employees that uses a covered device in its operations."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED ✓

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 8, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Henry Hutaff	N.C.B.A.
Ellen Lorscheider	NCDENR
Penny Griffin	School of Gov.
Jonah Warren	Intern to Rep. Luebke
Steve Nill	Biotech Center
Ruth Harris	Weyerhaeuser Co.
BRIAN DEMPSEY	MWC
Weatherly Rose	Hunton + Williams
DANIEL BLAISDELL	NCDENR - DWQ
Jean Hendrey	J. Warren Vosca
DAVID BARNES	Pogner Spruill

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 8, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lee Hodge	HP
Drew Ball	Sierra Club
[illegible]	NCFA
[illegible]	Dominion
Preston Howard	MCIC
George Everett	Duke Energy
John Goodman	NC Chamber
[illegible]	NCAEC
Ashley Jones	Progress Ch of NC
Michelle Frazier	MF+S
John Hardin	MF+S

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 8, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Robin Smith	DENR
Janie Hauser	DENR
Thomas Jones	NCACC
Rebecca Troutman	NCACC
Melissa Abrams	NCCV
JAnine Zanin	UNC Lawschool
Tom Fransen	DWR, DENR
T REEDER	11
Carl Mackenzen	Sierra Club
Peter Gehred	CCNC
Kimberly Rankin	Sierra Club

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 8, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Peter Griggs	CCNC
Amy Poe	UNC Law Extern, Court of Appeals
David Knight	DENR
Dick Hamilton	NCWF
Tom Cors	TNC
Leah Bradshaw	TNC
Margaret Hartzell	Environment North Carolina
Hassan Kamm	NCCN
Nick Ammann	Apple
Bruce Thompson	Parker Poe
Greg Wilson	Fiscal Research

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 8, 2010

Name of Committee — **Date**

VISITORS! PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mark Brown	McKay Rytz Counties

HOUSE PAGES

ENVIRONMENT & Natural Res

NAME OF COMMITTEE _____ DATE 6.8.2010

1. Name: Connor Tripp

   County: Cowan

   Sponsor: Owens

2. Name: Haley Wilbel

   County: Wilkes

   Sponsor: Shirley Randleman

3. Name: Miranda Alley

   County: Wake

   Sponsor: West

4. Name: _____

   County: _____

   Sponsor: _____

5. Name: _____

   County: _____

   Sponsor: _____

SGT-AT-ARM

1. Name: Fred Hines
2. Name: Cathy Adams
3. Name: David Shearon
4. Name: Don McLennan
5. Bill Bass

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

JUNE 10, 2010

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Thursday, June 10, 2010, in room 643 of the Legislative Office Building with Representative Cullie Tarleton presiding. Members present were: Representatives Gillespie, Harrison, Justice, Underhill, Vice-chairs; Representatives K. Alexander, Floyd, Gibson, Haire, Insko, Killian, Luebke, Martin, May, McComas, McElraft, Samuelson, Tucker, and Womble.

Representative Tarleton called the meeting to order at 12:05 p.m. He began by introducing the pages for the day and the sergeant-at-arms staff assigned to the meeting (list attached).

The first item on the agenda was House Committee Substitute for Senate Bill 836 – A BILL TO BE ENTITLED AN ACT TO REQUIRE ALL PUBLIC AGENCIES TO RECYCLE ALL SPENT FLUORESCENT LIGHTS AND MERCURY THERMOSTATS; REQUIRE THE REMOVAL OF ALL FLUORESCENT LIGHTS AND MERCURY THERMOSTATS FROM BUILDINGS PRIOR TO DEMOLITION; AND BAN MERCURY-CONTAINING PRODUCTS FROM UNLINED LANDFILLS. Representative Harrison, who was recognized to present the bill, noted that language from HB 2014 (copy attached) was being rolled into SB 836. As a proposed committee substitute was being distributed, Representative Floyd made a motion to place it before the committee. At the same time, a copy of an editorial from "The New York Times" (copy attached) was placed on each member's desk. Representative Harrison then showed a PowerPoint presentation entitled, "It Could Happen Here" (copy attached). Following Representative Harrison's remarks, Representative Underhill was recognized to further endorse the bill. A number of committee members' questions and comments were addressed by Representative Harrison and by staff. Drew Ball with the Sierra Club spoke in support of the bill. Tom Bean, representing the North Carolina Wildlife Foundation indicated that his group also supported the proposed legislation. At this point, Representative Floyd made a motion for a favorable report as to House Committee Substitute Bill 2, which changes the title, unfavorable as to House Committee Substitute Bill 1, and recommendation that House Committee Substitute Bill 2 be referred to the Committee on Judiciary I. This motion received unanimous approval.

With no further business to come before the committee, the meeting was adjourned at 1:00 p.m.

Respectfully submitted,

Representative Cullie Tarleton, Chair

Shara Graham, Committee Assistant

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE

MEETING

June 10, 2010
12:00 NOON
Room 643 LOB

Representative Tarleton, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

SB 836 - Recycle Products Containing Mercury
Primary Sponsor: Sen. Albertson

HB 2014 - Remove Damage Cap/Review Offshore Oil Spills
Primary Sponsors: Reps. Harrison, Underhill, Glazier, Luebke

ADJOURNMENT

H

HOUSE BILL 2014*

Short Title:	Remove Damage Cap/Review Offshore Oil Spills.	(Public)
Sponsors:	Representatives Harrison, Underhill, Glazier, Luebke (Primary Sponsors); K. Alexander, M. Alexander, Bordsen, Carney, Faison, Fisher, E. Floyd, Goodwin, Insko, Jackson, Jones, Lucas, Mackey, Martin, Mobley, Rapp, Weiss, and Whilden.	
Referred to:	Environment and Natural Resources, if favorable, Judiciary 1, if favorable, Appropriations.	

May 26, 2010

A BILL TO BE ENTITLED

AN ACT TO (1) REMOVE THE CAP ON THE TOTAL RECOVERY BY THE STATE FOR DAMAGE TO THE PUBLIC RESOURCES AND FOR THE COST OF ANY OIL OR OTHER HAZARDOUS SUBSTANCES CLEANUP ARISING FROM A DISCHARGE AND (2) DIRECT THE COASTAL RESOURCES COMMISSION TO CONDUCT A REVIEW AND EXAMINATION CONCERNING THE OIL SPILL ASSOCIATED WITH THE BRITISH PETROLEUM DEEPWATER HORIZON OFFSHORE DRILLING RIG AND THE ENVIRONMENTAL AND ECONOMIC EFFECTS OF THAT SPILL ON THE GULF COAST REGION AS WELL AS THE ENVIRONMENTAL AND ECONOMIC EFFECTS ON NORTH CAROLINA WERE SUCH AN OIL SPILL TO AFFECT THE COASTLINE OF NORTH CAROLINA EITHER BY TAKING PLACE OFF THE NORTH CAROLINA COAST OR BY TAKING PLACE ELSEWHERE YET REACHING THE WATERS AND COASTLINE OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.89 reads as rewritten:

"**§ 143-215.89. Multiple liability for necessary expenses.**

Any person liable for costs of cleanup of oil or other hazardous substances under this Part shall have a cause of action to recover such costs in part or in whole from any other person causing or contributing to the discharge of oil or other hazardous substances into the waters of the State, including any amount recoverable by the State as necessary expenses. ~~The total recovery by the State for damage to the public resources pursuant to G.S. 143-215.90 and for the cost of oil or other hazardous substances cleanup, arising from any discharge, shall not exceed the applicable limits prescribed by federal law with respect to the United States government on account of such discharge.~~"

SECTION 2.(a) The Coastal Resources Commission shall review and examine all of the following:

(1) The state and federal permitting and consistency review process that approved the leases and granted the permits for the British Petroleum Deepwater Horizon offshore drilling rig off the Gulf Coast.

(2) The environmental and economic effects on the Gulf Coast region of the recent oil spill caused by the failure at the British Petroleum Deepwater Horizon offshore drilling rig.

(3) The effect of such a spill on North Carolina's environment, public health, and economy, including fisheries and tourism industries, were such an oil spill to affect the coastline of North Carolina either by taking place off the North Carolina coast or by taking place elsewhere yet reaching the waters and coastline of North Carolina.

SECTION 2.(b) Upon the review and examination under subsection (a) of this section, the Commission shall adopt temporary and permanent rules, pursuant to G.S. 113A-107 and G.S. 113A-124, to require data and information in addition to the data and information currently required by 15A North Carolina Administrative Code 7M.0403(f)(2) for State permits and federal consistency reviews for all energy facilities in or affecting any land or water use or natural resource of the North Carolina coastal area. Notwithstanding G.S. 150B-21.1(a), the authorization to adopt temporary rules pursuant to this subsection shall continue in effect until 1 July 2011. This subsection satisfies the requirement for a statement of finding of need for a temporary rule set out in G.S. 150B-21.1. The additional data and information required under this section shall include at least all of the following:

(1) An assessment of the potential for a blowout of any proposed well, including the estimated flow rate, total volume, and maximum duration of any blowout. This assessment should address the likelihood of surface intervention to stop the blowout, the availability of a rig to drill a relief well, rig package constraints, and the estimated time it would take to drill a relief well.

(2) A calculation of the volume of oil of the worst-case discharge scenario based on the following guidelines:

a. For production platforms, the calculation of worst-case discharge scenario shall include all of the following:

1. The maximum capacity of all oil storage tanks and flow lines on the facility. Under this sub-subdivision, flow line volume may be estimated.
2. The volume of oil calculated to leak from a break in any pipeline connected to the facility considering shutdown time, the effect of hydrostatic pressure, gravity, frictional wall forces, and other factors.
3. The daily production volume from an uncontrolled blowout of the highest capacity well associated with the facility. In determining the daily production volume under this sub subdivision, reservoir characteristics, casing and production tubing sizes, and historical production and reservoir pressure data shall be considered.

b. For exploratory or development drilling operations, the calculation of worst-case discharge scenario shall be based upon the daily volume possible from an uncontrolled blowout.

(3) A description of a spill response, including all of the following:

a. A description of the response equipment to be used to contain and recover the discharge to the maximum extent practicable. This description shall include the types, location, owner, quantity, and capabilities of the equipment as well as the effective daily recovery capacities, where applicable. The applicant shall calculate the effective daily recovery capacities. For operations at a drilling or production facility, the description shall include how the applicant is to address the initial spill volume upon arrival at the scene and the support operations for a blowout that continues for 30 days.

b. A description of the personnel, materials, and support vessels that are necessary to ensure that the response equipment described under sub-subdivision a. of this subdivision is deployed and operated promptly and effectively. This description shall include the location and owner of these resources as well as the quantities and types of resources, if applicable.

c. A description of oil storage, transfer, and disposal equipment. This description shall include the types, location, owner, quantity, and capacities of the equipment.

d. An estimate of the amount of time needed to accomplish all of the following:

1. To procure the containment, recovery, and storage equipment described under this subdivision.
2. To procure the equipment transportation vessels.
3. To procure personnel to load and operate the containment, recovery, and storage equipment described under this subdivision.
4. To transfer the containment, recovery, and storage equipment described under this subdivision to all of the equipment transportation vessels.
5. To travel to the deployment site and to travel from an equipment storage area.
6. To deploy all identified containment, recovery, and storage equipment described under this subdivision.

(4) An assessment of the number of jobs lost in tourism, fishing, and other affected industries as a result of a worst-case discharge scenario.

(5) An assessment of alternatives to the proposed offshore drilling project that would limit the likelihood of a spill, to include at least an assessment of energy conservation as alternative.

(6) An assessment of the potential damage from a worst-case spill scenario to coastal resources, including at least an assessment of the potential damage to the following: offshore reefs; rock outcrops or hard bottoms; sea turtle nesting beaches; freshwater and saltwater wetlands and primary or secondary nursery areas; essential fish habitat; submerged aquatic vegetation beds; shellfish beds; anadromous fish spawning and nursing areas; colonial bird nesting colonies; shorebird nesting habitats; and artificial reefs, shipwrecks, and submerged archaeological resources.

(7) An explanation of specific measures to be taken to prevent and minimize damage to all of the coastal resources listed under subdivision (6) of this subsection.

(8) A detailed description of any chemical dispersants that may be used in response to a spill, including information related to the impact of dispersants on coastal resources. This description shall include a comparison of toxicity of available dispersants.

(9) An assessment of the potential for a spill to cause temporary or permanent violations of the federal and State water quality standards, including the antidegradation policy adopted pursuant to section 303(d) of the federal Clean Water Act (33 U.S.C. § 1313(d)).

SECTION 3. Pursuant to G.S. 113A-107 and G.S. 113A-124, the Commission of Coastal Resources shall adopt temporary and permanent rules to ensure that any impact assessment, as defined in 15A North Carolina Administrative Code 07M .0402(a), for any

proposal for oil or gas exploration activities shall include a full discussion of the items described in subdivisions (1) through (9) of subsection (a) of 15A North Carolina Administrative Code 07M .0402(a) for a worst-case discharge scenario associated with the proposal for oil or gas exploration activities. Notwithstanding G.S. 150B-21.1(a), the authorization to adopt temporary rules pursuant to this section shall continue in effect until 1 July 2011. This section satisfies the requirement for a statement of finding of need for a temporary rule set out in G.S. 150B-21.1.

SECTION 4. There is appropriated from the General Fund to the Coastal Resources Commission the sum of fifty thousand dollars ($50,000) for the 2010-2011 fiscal year to be used to conduct the review and examination under this act.

SECTION 5. This act is effective when it becomes law and applies to any damage to public resources and to any oil or hazardous cleanup that occur on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 2

SENATE BILL 836*
House Committee Substitute Favorable 8/6/09

Short Title: Recycle Products Containing Mercury. (Public)

Sponsors:

Referred to:

March 25, 2009

A BILL TO BE ENTITLED

AN ACT TO REQUIRE ALL PUBLIC AGENCIES TO RECYCLE ALL SPENT FLUORESCENT LIGHTS AND MERCURY THERMOSTATS; REQUIRE THE REMOVAL OF ALL FLUORESCENT LIGHTS AND MERCURY THERMOSTATS FROM BUILDINGS PRIOR TO DEMOLITION; AND BAN MERCURY-CONTAINING PRODUCTS FROM UNLINED LANDFILLS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 7. Management of Certain Products That Contain Mercury.

"**§ 130A-310.60. Recycling required by public agencies.**

(a) Each State agency, including the General Assembly, the General Court of Justice, universities, community colleges, public schools, and political subdivisions using State funds, shall establish a program in cooperation with the Department of Environment and Natural Resources and the Department of Administration for the collection and recycling of all spent fluorescent lights and thermostats that contain mercury generated in public buildings. The program shall include procedures for convenient collection, safe storage, and proper recycling of spent fluorescent lights and thermostats that contain mercury and contractual or other arrangements with buyers of the recyclable materials.

(b) Each State agency, including the General Assembly, the General Court of Justice, universities, community colleges, the Department of Public Instruction on behalf of the public schools, and political subdivisions using State funds, shall submit a report on or before February 1, 2010, that documents the entity's compliance with the requirements of subsection (a) of this section to the Department of Environment and Natural Resources and the Department of Administration. The Departments shall compile the information submitted and jointly shall submit a report to the Environmental Review Commission on or before May 1, 2010, concerning the activities required by subsection (a) of this section. The information provided also shall be included in the report required by G.S. 130A-309.06(c).

"**§ 130A-310.61. Removal and recycling of mercury-containing products from structures to be demolished.**

Prior to demolition of any building or structure in the State, the contractor responsible for the demolition activity or the owner of the building or structure to be demolished shall remove all fluorescent lights and thermostats that contain mercury from the building or structure to be demolished."

SECTION 2. G.S. 130A-309.10 is amended by adding a new subsection to read:

"(m) No person shall knowingly dispose of fluorescent lights and thermostats that contain mercury in a sanitary landfill for the disposal of construction and demolition debris waste that is unlined or in any other landfill that is unlined."

SECTION 3. This act is effective when it becomes law, except that: (i) the recycling program required by G.S. 130A-310.60, as enacted by Section 1 of this act, shall be established and implemented by each State agency by December 1, 2009; (ii) G.S. 130A-310.61, as enacted by Section 1 of this act; and (iii) Section 2 of this act becomes effective December 1, 2009, and applies to offenses committed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 836*
House Committee Substitute Favorable 8/6/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S836-CSTA-44 [v.2]

6/10/2010 11:13:37 AM

Short Title: Remove Damage Cap/Review Offshore Oil Spills. (Public)

Sponsors:

Referred to:

March 25, 2009

A BILL TO BE ENTITLED

AN ACT TO: (1) REMOVE THE CAP ON THE TOTAL RECOVERY BY THE STATE FOR DAMAGE TO THE PUBLIC RESOURCES AND FOR THE COST OF ANY OIL OR OTHER HAZARDOUS SUBSTANCES CLEANUP ARISING FROM A DISCHARGE, CLARIFY THAT THE LIABILITY FOR ALL CLEANUP AND REMOVAL COSTS AND ALL DIRECT AND INDIRECT DAMAGES INCURRED WITHIN THE JURISDICTION OF THE STATE INCLUDES DISCHARGES FROM FACILITIES LOCATED IN THE STATE'S COASTAL FISHING WATERS, AND CLARIFY THE EXCEPTIONS FOR LIABILITY TO AN INJURED PARTY FOR SUCH DAMAGES; (2) PROVIDE FOR A REVIEW OF INFORMATION REQUIRED FOR A PROPOSED OFFSHORE FOSSIL FUEL FACILITY IN ORDER TO DETERMINE CONSISTENCY WITH STATE GUIDELINES FOR THE COASTAL AREA; (3) DIRECT THE COASTAL RESOURCES COMMISSION TO REVIEW EXISTING LAWS AND REGULATIONS THAT PERTAIN TO OFFSHORE ENERGY EXPLORATION AND PRODUCTION IN LIGHT OF THE EXPLOSION, SINKING, AND SUBSEQUENT OIL RELEASES FROM THE BRITISH PETROLEUM DEEPWATER HORIZON OFFSHORE DRILLING RIG; AND (4) DIRECT THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY TO IMMEDIATELY REVIEW AND UPDATE THE STATE OIL SPILL AND CONTINGENCY PLAN IN ORDER TO PREPARE THE STATE IN THE EVENT PRODUCT RELEASED FROM THE BRITISH PETROLEUM DEEPWATER HORIZON OFFSHORE DRILLING RIG IS SWEPT TO THE NORTH CAROLINA COAST.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 143-215.89 reads as rewritten:

"**§ 143-215.89. Multiple liability for necessary expenses.**

Any person liable for costs of cleanup of oil or other hazardous substances under this Part shall have a cause of action to recover such costs in part or in whole from any other person causing or contributing to the discharge of oil or other hazardous substances into the waters of the State, including any amount recoverable by the State as necessary expenses. ~~The total recovery by the State for damage to the public resources pursuant to G.S. 143-215.90 and for the cost of oil or other hazardous substances cleanup, arising from any discharge, shall not exceed the applicable limits prescribed by federal law with respect to the United States government on account of such discharge.~~"

SECTION 1.(b) G.S. 143-215.94.BB reads as rewritten:

"**§ 143-215.94BB. Definitions.**

In addition to the definitions set out in G.S. 143-215.77, as used in this Part, the following definitions shall apply:

...

(4) "Exploration" means undersea boring, drilling, ~~and soil sampling~~ soil sampling, and any other technique employed to assess and evaluate the presence of subterranean oil and natural gas deposits.

..."

SECTION 1.(c) G.S. 143-215.94CC reads as rewritten:

"**§ 143-215.94CC. Liability under this section; exceptions.**

(a) Any responsible person shall be strictly liable, notwithstanding any language of limitation found in G.S. 143-215.89, for all cleanup and removal costs and all direct or indirect damages incurred within the territorial jurisdiction of the State by any injured party, which arise out of, or are caused by, the discharge or leaking of natural gas, oil, or drilling waste into or onto "coastal fishing waters" as defined in G.S. 113-129(4), or offshore waters, or by any exploration in or upon coastal fishing or offshore waters, from any of the following sources:

(1) Any ~~offshore~~ well or undersea site located in coastal fishing waters at which there is exploration for or extraction or recovery of natural gas or oil.

(2) Any ~~offshore~~ facility, oil rig, or oil platform located in coastal fishing waters at which there is exploration for, or extraction, recovery, processing, or storage of, natural gas or oil.

(3) Any vessel ~~offshore~~ located in coastal fishing waters in which natural gas, oil, or drilling waste is transported, processed or stored other than for purposes of fuel for the vessel carrying it.

(4) Any pipeline ~~located offshore~~ located in coastal fishing waters in which natural gas, oil, or drilling waste is transported.

(b) A responsible person is not liable to an injured party under this section for any of the following:

(1) Damages, other than costs of removal incurred by the State or a local government, caused solely by any act of war, hostilities, civil war, or insurrection or by an unanticipated grave natural disaster or other act of God of an exceptional, inevitable, and irresistible character, which could not have been prevented or avoided by the exercise of due care or foresight.

(2) Damages caused solely by the negligence or intentional malfeasance of that injured party.

(3) Damages caused solely by the criminal act of a third party other than the defendant or an agent or employee of the defendant. In any action arising under the provisions of this Article wherein this exception is raised as a defense to liability, the burden of proving that the alleged third-party intervention occurred in such a manner as to limit the liability of the person sought to be held liable shall be upon the person charged.

(4) Natural seepage not caused by a responsible person.

(5) Discharge or leaking of oil or natural gas from a private pleasure boat or commercial fishing vessel having a fuel capacity of less than 500 gallons.

(6) Damages which arise out of, or are caused by, a discharge which is authorized ~~by~~ by, and in compliance with, a State or federal permit.

(7) Damages that could have been reasonably mitigated by the injured party in accordance with common law.

(c) A court of suitable jurisdiction in any action under this Part may award reasonable costs of the suit and attorneys' fees, and the costs of any necessary expert witnesses, to any

prevailing plaintiff. The court may award reasonable costs of the suit and attorneys' fees to any prevailing defendant only if the court finds that the plaintiff commenced or prosecuted the suit under this Part in bad faith or solely for purposes of harassing the defendant."

SECTION 2. Part 4 of Article 7 of Chapter 113A of the General Statutes is amended by adding a new section to read:

"**§ 113A-119.2. Review of offshore fossil fuel facilities.**

(a) In addition to the definitions set out in G.S. 113A-103, as used in this section, the following definitions shall apply:

(1) "Coastal fishing waters" has the same meaning as in G.S. 113-129(4).

(2) "Discharge" has the same meaning as in G.S. 143-215.77.

(3) "Offshore fossil fuel facility" means those facilities which because of their size, magnitude, or scope of impacts, have the potential to affect any land or water use or natural resource of the coastal area. For purposes of this definition, offshore fossil fuel facilities shall include, but are not limited to:

a. Any equipment, including but not limited, to pipelines and vessels, that are used to carry, transport, or transfer oil, natural gas, liquid natural gas, liquid propane gas, or synthetic gas.

b. Structures, including drillships and floating platforms and structures relocated from other states or countries, located in coastal fishing waters for the purposes of exploration for, or development or production of, oil or natural gas.

c. Onshore support or staging facilities related to exploration for, or development or production of, oil or natural gas.

(4) "Oil" has the same meaning as in G.S. 143-215.77.

(b) In addition to any other information necessary to determine consistency with State guidelines adopted pursuant to G.S. 113A-107, the following information is required for the review of an offshore fossil fuel facility located in coastal fishing waters:

(1) An assessment of the potential for any unauthorized discharge from any proposed well, including the estimated flow rate, total volume, and maximum duration of any unauthorized discharge. This assessment shall address the likelihood of surface intervention procedures to end the unauthorized discharge, the availability of equipment to drill a relief well, rig package constraints, and the estimated time it would take to drill a relief well.

(2) A calculation of the volume of oil for the worst-case unauthorized discharge scenario as applicable:

a. For production platforms, calculation of the worst-case unauthorized discharge scenario shall include all of the following:

1. The maximum capacity of all oil storage tanks and flow lines on the facility. For purposes of this sub-subdivision, flow line volume may be estimated.

2. The volume of any unauthorized discharge of oil from any pipeline that is connected to the facility taking into consideration shutdown time, the effect of hydrostatic pressure, gravity, frictional wall forces, and any other factors.

3. The daily volume from an unauthorized discharge from the highest capacity well associated with the facility. In determining the daily volume under this sub-subdivision, reservoir characteristics, casing and production tubing sizes, and historical production and reservoir pressure data shall be considered.

b. For exploratory or development operations, the calculation of worst-case unauthorized discharge scenario shall be based upon the estimated flow rate, total volume, and maximum duration as calculated in subdivision (1) of this subsection.

(3) A description of the proposed spill response in the event of an unauthorized discharge, including all of the following:

a. The response, containment, recovery, and storage equipment to be used to contain and recover the unauthorized discharge to the maximum extent practicable. This description shall include the types, location, owner, quantity, and capabilities of the equipment including the effective daily recovery capacities, where applicable. For operations at a drilling or production facility, describe measures to address the initial spill volume and the support operations for an unauthorized discharge that continues for 30 days or more.

b. A description of the personnel, materials, and support vessels that are necessary to ensure that the response, containment, recovery, and storage equipment described under sub-subdivision a. of this subdivision are deployed and operated promptly and effectively.

c. A description of oil storage, transfer, and disposal equipment including the type, location, owner, quantity, and capacities of the equipment.

d. For all of the following, an estimate of the amount of time required to:

1. Procure the response, containment, recovery, and storage equipment described in this subdivision.
2. Procure the vessels to transport the response, containment, recovery, and storage equipment.
3. Procure personnel to load and operate the response, containment, recovery, and storage equipment and vessels described in this subdivision.
4. Transfer the response, containment, recovery, and storage equipment described in this subdivision to all of the transportation vessels.
5. Transfer the response, containment, recovery, and storage equipment from the equipment storage area to the deployment site.
6. Deploy all identified response, containment, recovery, and storage equipment described in this subdivision.

(4) An assessment of the number of jobs lost in tourism, fishing, and other affected industries as a result of a worst-case discharge scenario.

(5) An assessment of alternatives to the proposed offshore fossil fuel facility that would minimize the likelihood of an unauthorized discharge.

(6) An assessment of the potential impacts resulting from a worst-case unauthorized discharge scenario to coastal resources, including, at a minimum: offshore reefs; rock outcrops or hard bottoms; sea turtle nesting areas; freshwater and saltwater wetlands; primary or secondary nursery areas; essential fish habitats; submerged aquatic vegetation beds; shellfish beds; anadromous fish spawning and nursing areas; bird nests and bird habitat areas; and artificial reefs, shipwrecks, and submerged archaeological resources.

(7) An explanation of measures to be employed to prevent or minimize impacts to the coastal resources listed in subdivision (6) of this subsection in the event of an unauthorized discharge.

(8) A detailed description of any chemical dispersants that may be employed in response to an unauthorized discharge, including information on the impact of employing dispersants on coastal resources listed in subdivision (6) of this subsection. This description shall include a comparison of the toxicity of available dispersants.

(9) An assessment of the potential for an unauthorized discharge to cause temporary or permanent violations of the federal and State water quality standards, including the antidegradation policy adopted pursuant to section 303(d) of the federal Clean Water Act (33 U.S.C. § 1313(d))."

SECTION 3. In light of the recent events pertaining to the British Petroleum Deepwater Horizon offshore drilling rig, the Coastal Resources Commission shall review existing statutes and modify existing rules that pertain to offshore energy exploration and production and make recommendations, if any, to the Environmental Review Commission on or before October 1, 2011.

SECTION 4. The Department of Crime Control and Public Safety shall immediately review the potential impacts of oil leaking from the British Petroleum Deepwater Horizon offshore drilling rig on the North Carolina coast and shall update the Oil Spill Contingency Plan, authorized pursuant to G.S. 143-215.94HH, as necessary to ensure the State's preparedness in the event the oil leaking from the British Petroleum Deepwater Horizon offshore drilling rig is swept by currents or other mechanisms to the North Carolina coast or the State's waters. In updating the plan, the Department shall assess the actions that are being implemented to manage and mitigate economic and environmental impacts resulting from the spill, determine which solutions have proven successful, identify the best management practices available to address the impacts, and identify the resources necessary to carry out the Oil Spill Contingency Plan.

SECTION 5. This act is effective when it becomes law. Section 1 of this act applies to any damages, as defined in G.S. 143-215.94BB, that occur on or after that date.

SENATE BILL 836:
Remove Damage Cap/Review Offshore Oil Spills.

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	June 10, 2010
Introduced by:	Senator Albertson	**Prepared by:**	Jennifer Mundt
Analysis of:	PCS to Second Edition S836-CSTA-44 [v.2]		Legislative Analyst

SUMMARY: ***The Proposed Committee Substitute for Senate Bill 836 (PCS) would remove the cap on liability to the State for damage to public resources arising from the discharge of oil or other hazardous substances, clarify other liability provisions, provide for review of information related to the permitting of an offshore fossil fuel facility, and direct State agencies to review State policies and plans related to offshore energy exploration and discharges of oil.***

BILL SUMMARY AND ANALYSIS:

Section 1.(a): Cap for Total Recovery of Oil or Hazardous Substances Discharges

Under current law, the total recovery by the State for damage to public resources and cleanup costs arising from the discharge[1] of oil or other hazardous substances is tied to the federal liability cap, which, for an offshore facility, appears to be limited to the total of all removal costs plus $75 million.
The PCS would repeal the provision that limits recovery by the State to the federal liability cap.

Section 1.(b): Definition of Exploration

The PCS would amend the definition of "exploration," as it pertains to offshore oil and gas activities, to include other techniques employed to assess and evaluate the presence of subterranean oil and natural gas deposits beyond undersea boring, drilling, and soil sampling.

Section 1.(c): Liability and Exceptions

Under current law, a responsible person is strictly liable for all cleanup and removal costs and all direct or indirect damages that arise out of the discharge or leaking of natural gas, oil, or drilling waste into coastal fishing waters[2] or offshore waters[3] from facilities located offshore.

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[1] As defined by G.S. 143-215.77(4), "discharge" means, but is not limited to, any emission, spillage, leakage, pumping, pouring, emptying, or dumping of oil or other hazardous substances into waters of the State or into waters outside the territorial limits of the State which affect lands, waters or uses related thereto within the territorial limits of the State, or upon land in such proximity to waters that oil or other hazardous substances is reasonably likely to reach the waters, but shall not include amounts less than quantities which may be harmful to the public health or welfare.

[2] As defined by G.S. 113-129(4), "coastal fishing waters" means: the Atlantic Ocean; the various coastal sounds; and estuarine waters up to the dividing line between coastal fishing waters and inland fishing waters agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission. Except as provisions in this Subchapter or changes in the agreement between the Marine Fisheries Commission and the Wildlife Resources Commission may make such reference inapplicable, all references in statutes, regulations, ntracts, and other legal or official documents to commercial fishing waters apply to coastal fishing waters.

[3] As defined by G.S. 143-215.94BB(7), "offshore waters" include both the territorial sea extending seaward from the coastline of North Carolina to the State and federal boundary, and United States jurisdictional waters of the Atlantic Ocean adjacent to the territorial sea of the State.

The PCS would clarify that the liability for damages that arise out of the discharge or leaking of natural gas, oil, or drilling waste includes discharges from facilities located in the State's coastal fishing waters rather than offshore. "Coastal fishing waters" clearly includes the State's sounds and estuaries as well as the Atlantic Ocean, while "offshore" could be interpreted to only include the Atlantic Ocean.

Under current law, damages that arise out of the discharge or leaking of natural gas, oil, or drilling waste are not recoverable if the damages are caused by a discharge authorized by a State or federal permit or the damages could have been mitigated by the injured party.
The PCS would clarify that the defense to liability for any damages that result from a discharge authorized by a State or federal permit only applies when the discharge is in compliance with the permit. The PCS would also provide that mitigation required of an injured party be reasonable.

Section 2: Review of Information Required for a Proposed Offshore Fossil Fuel Facility

The PCS would provide for review of information pertaining to an offshore fossil fuel facility located in coastal fishing waters necessary to determine consistency[4] with State guidelines for public and private use of land and water areas within the coastal area. "***Offshore fossil fuel facility***" would be defined to mean: those facilities which because of their size, magnitude, or scope of impacts, have the potential to affect any land or water use or natural resource of the coastal area. Offshore fossil fuel facilities include, but are not limited to:

- Any equipment, including but not limited, to pipelines and vessels, that are used to carry, transport, or transfer oil, natural gas, liquid natural gas, liquid propane gas, or synthetic gas.
- Structures, including drillships and floating platforms and structures relocated from other states or countries, located in coastal fishing waters for the purposes of exploration for, or development or production of, oil or natural gas.
- Onshore support or staging facilities related to exploration for, or development or production of, oil or natural gas.

The following information ***pertaining to an unauthorized worst-case discharge scenario*** would be required for the review of an offshore fossil fuel facility:

- An assessment of the potential for the discharge from any proposed well, including estimates for flow rate, total volume, and maximum duration of any such discharge.
- Calculations for the volume of oil from production platforms or from exploratory or development operations, as applicable.
- Description of the proposed spill response detailing necessary equipment and personnel that includes an estimate for the amount of time required to implement response activities.
- Socio-economic assessment of impacts to affected industries.
- Assessment of alternatives to the proposed facility that would minimize the likelihood of an unauthorized discharge.
- Assessment of potential impacts resulting from the discharge on coastal resources.
- Measures to be employed to prevent or minimize impacts to coastal resources.

[4] The term "consistency" refers to federal consistency review and determination as required pursuant to Section 307 of 16 U.S.C. § 1456 wherein each federal agency activity or activity that requires federal permits, licensing, or authorization within or outside the coastal zone that affects any land or water use or natural resource of the coastal zone is to be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved State management programs.

- Description of any chemical dispersants that may be used during spill response and a comparison of the toxicity of available dispersants.
- An assessment of the potential for the discharge to cause temporary or permanent violations of State and federal water quality standards.

Section 3: Review Existing Laws and Rules Pertaining to Offshore Exploration and Production

The PCS would direct the Coastal Resources Commission to review existing laws and regulations that pertain to offshore energy exploration and production in light of the explosion, sinking, and subsequent oil releases from the Deepwater Horizon and make recommendations, if any, to the Environmental Review Commission on or before October 1, 2011.

Section 4: Review and Update the State Oil Spill Contingency Plan

The PCS would direct the Department of Crime Control and Public Safety to immediately review the potential impacts of oil leaking from the Deepwater Horizon on the North Carolina Coast and update the State's Oil Spill Contingency Plan accordingly to ensure the State's preparedness in the event the oil leaking from the Deepwater Horizon makes it to North Carolina's coast or waters.

EFFECTIVE DATE: This act is effective when it becomes law. Section 1 applies to any damages that occur on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 836*
House Committee Substitute Favorable 8/6/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S836-PCS15411-TA-44

Short Title: Remove Damage Cap/Review Offshore Oil Spills. (Public)

Sponsors:

Referred to:

March 25, 2009

A BILL TO BE ENTITLED

AN ACT TO: (1) REMOVE THE CAP ON THE TOTAL RECOVERY BY THE STATE FOR DAMAGE TO THE PUBLIC RESOURCES AND FOR THE COST OF ANY OIL OR OTHER HAZARDOUS SUBSTANCES CLEANUP ARISING FROM A DISCHARGE, CLARIFY THAT THE LIABILITY FOR ALL CLEANUP AND REMOVAL COSTS AND ALL DIRECT AND INDIRECT DAMAGES INCURRED WITHIN THE JURISDICTION OF THE STATE INCLUDES DISCHARGES FROM FACILITIES LOCATED IN THE STATE'S COASTAL FISHING WATERS, AND CLARIFY THE EXCEPTIONS FOR LIABILITY TO AN INJURED PARTY FOR SUCH DAMAGES; (2) PROVIDE FOR A REVIEW OF INFORMATION REQUIRED FOR A PROPOSED OFFSHORE FOSSIL FUEL FACILITY IN ORDER TO DETERMINE CONSISTENCY WITH STATE GUIDELINES FOR THE COASTAL AREA; (3) DIRECT THE COASTAL RESOURCES COMMISSION TO REVIEW EXISTING LAWS AND REGULATIONS THAT PERTAIN TO OFFSHORE ENERGY EXPLORATION AND PRODUCTION IN LIGHT OF THE EXPLOSION, SINKING, AND SUBSEQUENT OIL RELEASES FROM THE BRITISH PETROLEUM DEEPWATER HORIZON OFFSHORE DRILLING RIG; AND (4) DIRECT THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY TO IMMEDIATELY REVIEW AND UPDATE THE STATE OIL SPILL AND CONTINGENCY PLAN IN ORDER TO PREPARE THE STATE IN THE EVENT PRODUCT RELEASED FROM THE BRITISH PETROLEUM DEEPWATER HORIZON OFFSHORE DRILLING RIG IS SWEPT TO THE NORTH CAROLINA COAST.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 143-215.89 reads as rewritten:

"**§ 143-215.89. Multiple liability for necessary expenses.**

Any person liable for costs of cleanup of oil or other hazardous substances under this Part shall have a cause of action to recover such costs in part or in whole from any other person causing or contributing to the discharge of oil or other hazardous substances into the waters of the State, including any amount recoverable by the State as necessary expenses. ~~The total recovery by the State for damage to the public resources pursuant to G.S. 143-215.90 and for the cost of oil or other hazardous substances cleanup, arising from any discharge, shall not exceed the applicable limits prescribed by federal law with respect to the United States government on account of such discharge.~~"

SECTION 1.(b) G.S. 143-215.94BB reads as rewritten:

"**§ 143-215.94BB. Definitions.**

In addition to the definitions set out in G.S. 143-215.77, as used in this Part, the following definitions shall apply:

...

(4) "Exploration" means undersea boring, drilling, ~~and soil sampling.~~soil sampling, and any other technique employed to assess and evaluate the presence of subterranean oil and natural gas deposits.

...."

SECTION 1.(c) G.S. 143-215.94CC reads as rewritten:

"**§ 143-215.94CC. Liability under this section; exceptions.**

(a) Any responsible person shall be strictly liable, notwithstanding any language of limitation found in G.S. 143-215.89, for all cleanup and removal costs and all direct or indirect damages incurred within the territorial jurisdiction of the State by any injured party, which arise out of, or are caused by, the discharge or leaking of natural gas, oil, or drilling waste into or onto "coastal fishing waters" as defined in G.S. 113-129(4), or offshore waters, or by any exploration in or upon coastal fishing or offshore waters, from any of the following sources:

(1) Any ~~offshore~~ well or undersea site located in coastal fishing waters at which there is exploration for or extraction or recovery of natural gas or oil.

(2) Any ~~offshore~~ facility, oil rig, or oil platform located in coastal fishing waters at which there is exploration for, or extraction, recovery, processing, or storage of, natural gas or oil.

(3) Any vessel ~~offshore~~ located in coastal fishing waters in which natural gas, oil, or drilling waste is transported, processed or stored other than for purposes of fuel for the vessel carrying it.

(4) Any pipeline ~~located offshore~~ located in coastal fishing waters in which natural gas, oil, or drilling waste is transported.

(b) A responsible person is not liable to an injured party under this section for any of the following:

(1) Damages, other than costs of removal incurred by the State or a local government, caused solely by any act of war, hostilities, civil war, or insurrection or by an unanticipated grave natural disaster or other act of God of an exceptional, inevitable, and irresistible character, which could not have been prevented or avoided by the exercise of due care or foresight.

(2) Damages caused solely by the negligence or intentional malfeasance of that injured party.

(3) Damages caused solely by the criminal act of a third party other than the defendant or an agent or employee of the defendant. In any action arising under the provisions of this Article wherein this exception is raised as a defense to liability, the burden of proving that the alleged third-party intervention occurred in such a manner as to limit the liability of the person sought to be held liable shall be upon the person charged.

(4) Natural seepage not caused by a responsible person.

(5) Discharge or leaking of oil or natural gas from a private pleasure boat or commercial fishing vessel having a fuel capacity of less than 500 gallons.

(6) Damages which arise out of, or are caused by, a discharge which is authorized ~~by~~ by, and in compliance with, a State or federal permit.

(7) Damages that could have been reasonably mitigated by the injured party in accordance with common law.

(c) A court of suitable jurisdiction in any action under this Part may award reasonable costs of the suit and attorneys' fees, and the costs of any necessary expert witnesses, to any

prevailing plaintiff. The court may award reasonable costs of the suit and attorneys' fees to any prevailing defendant only if the court finds that the plaintiff commenced or prosecuted the suit under this Part in bad faith or solely for purposes of harassing the defendant."

SECTION 2. Part 4 of Article 7 of Chapter 113A of the General Statutes is amended by adding a new section to read:

"**§ 113A-119.2. Review of offshore fossil fuel facilities.**

(a) In addition to the definitions set out in G.S. 113A-103, as used in this section, the following definitions shall apply:

(1) "Coastal fishing waters" has the same meaning as in G.S. 113-129(4).

(2) "Discharge" has the same meaning as in G.S. 143-215.77.

(3) "Offshore fossil fuel facility" means those facilities which, because of their size, magnitude, or scope of impacts, have the potential to affect any land or water use or natural resource of the coastal area. For purposes of this definition, offshore fossil fuel facilities shall include, but are not limited to:

a. Any equipment, including, but not limited to, pipelines and vessels that are used to carry, transport, or transfer oil, natural gas, liquid natural gas, liquid propane gas, or synthetic gas.

b. Structures, including drill ships and floating platforms and structures relocated from other states or countries, located in coastal fishing waters for the purposes of exploration for, or development or production of, oil or natural gas.

c. Onshore support or staging facilities related to exploration for, or development or production of, oil or natural gas.

(4) "Oil" has the same meaning as in G.S. 143-215.77.

(b) In addition to any other information necessary to determine consistency with State guidelines adopted pursuant to G.S. 113A-107, the following information is required for the review of an offshore fossil fuel facility located in coastal fishing waters:

(1) An assessment of the potential for any unauthorized discharge from any proposed well, including the estimated flow rate, total volume, and maximum duration of any unauthorized discharge. This assessment shall address the likelihood of surface intervention procedures to end the unauthorized discharge, the availability of equipment to drill a relief well, rig package constraints, and the estimated time it would take to drill a relief well.

(2) A calculation of the volume of oil for the worst-case unauthorized discharge scenario as applicable:

a. For production platforms, calculation of the worst-case unauthorized discharge scenario shall include all of the following:

1. The maximum capacity of all oil storage tanks and flow lines on the facility. For purposes of this sub-subdivision, flow line volume may be estimated.

2. The volume of any unauthorized discharge of oil from any pipeline that is connected to the facility, taking into consideration shutdown time, the effect of hydrostatic pressure, gravity, frictional wall forces, and any other factors.

3. The daily volume from an unauthorized discharge from the highest capacity well associated with the facility. In determining the daily volume under this sub-subdivision, reservoir characteristics, casing and production tubing sizes, and historical production and reservoir pressure data shall be considered.

b. For exploratory or development operations, the calculation of a worst-case unauthorized discharge scenario shall be based upon the estimated flow rate, total volume, and maximum duration as calculated in subdivision (1) of this subsection.

(3) A description of the proposed spill response in the event of an unauthorized discharge, including all of the following:

a. The response, containment, recovery, and storage equipment to be used to contain and recover the unauthorized discharge to the maximum extent practicable. This description shall include the types, location, owner, quantity, and capabilities of the equipment, including the effective daily recovery capacities, where applicable. For operations at a drilling or production facility, describe measures to address the initial spill volume and the support operations for an unauthorized discharge that continues for 30 days or more.

b. A description of the personnel, materials, and support vessels that are necessary to ensure that the response, containment, recovery, and storage equipment described under sub-subdivision a. of this subdivision are deployed and operated promptly and effectively.

c. A description of oil storage, transfer, and disposal equipment including the type, location, owner, quantity, and capacities of the equipment.

d. For all of the following, an estimate of the amount of time required to:

1. Procure the response, containment, recovery, and storage equipment described in this subdivision.
2. Procure the vessels to transport the response, containment, recovery, and storage equipment.
3. Procure personnel to load and operate the response, containment, recovery, and storage equipment and vessels described in this subdivision.
4. Transfer the response, containment, recovery, and storage equipment described in this subdivision to all of the transportation vessels.
5. Transfer the response, containment, recovery, and storage equipment from the equipment storage area to the deployment site.
6. Deploy all identified response, containment, recovery, and storage equipment described in this subdivision.

(4) An assessment of the number of jobs lost in tourism, fishing, and other affected industries as a result of a worst-case discharge scenario.

(5) An assessment of alternatives to the proposed offshore fossil fuel facility that would minimize the likelihood of an unauthorized discharge.

(6) An assessment of the potential impacts resulting from a worst-case unauthorized discharge scenario to coastal resources, including, at a minimum: offshore reefs; rock outcrops or hard bottoms; sea turtle nesting areas; freshwater and saltwater wetlands; primary or secondary nursery areas; essential fish habitats; submerged aquatic vegetation beds; shellfish beds; anadromous fish spawning and nursing areas; bird nests and bird habitat areas; and artificial reefs, shipwrecks, and submerged archaeological resources.

(7) An explanation of measures to be employed to prevent or minimize impacts to the coastal resources listed in subdivision (6) of this subsection in the event of an unauthorized discharge.

(8) A detailed description of any chemical dispersants that may be employed in response to an unauthorized discharge, including information on the impact of employing dispersants on coastal resources listed in subdivision (6) of this subsection. This description shall include a comparison of the toxicity of available dispersants.

(9) An assessment of the potential for an unauthorized discharge to cause temporary or permanent violations of the federal and State water quality standards, including the antidegradation policy adopted pursuant to section 303(d) of the federal Clean Water Act (33 U.S.C. § 1313(d))."

SECTION 3. In light of the recent events pertaining to the British Petroleum Deepwater Horizon offshore drilling rig, the Coastal Resources Commission shall review existing statutes and modify existing rules that pertain to offshore energy exploration and production and make recommendations, if any, to the Environmental Review Commission on or before October 1, 2011.

SECTION 4. The Department of Crime Control and Public Safety shall immediately review the potential impacts of oil leaking from the British Petroleum Deepwater Horizon offshore drilling rig on the North Carolina coast and shall update the Oil Spill Contingency Plan, authorized pursuant to G.S. 143-215.94HH, as necessary to ensure the State's preparedness in the event the oil leaking from the British Petroleum Deepwater Horizon offshore drilling rig is swept by currents or other mechanisms to the North Carolina coast or the State's waters. In updating the plan, the Department shall assess the actions that are being implemented to manage and mitigate economic and environmental impacts resulting from the spill, determine which solutions have proven successful, identify the best management practices available to address the impacts, and identify the resources necessary to carry out the Oil Spill Contingency Plan.

SECTION 5. This act is effective when it becomes law. Section 1 of this act applies to any damages, as defined in G.S. 143-215.94BB, that occur on or after that date.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Tarleton, Harrison, and Underhill (Vice-Chairs) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒ House Committee Substitute # 1 for

SB 836 A BILL TO BE ENTITLED AN ACT TO REQUIRE ALL PUBLIC AGENCIES TO RECYCLE ALL SPENT FLUORESCENT LIGHTS AND MERCURY THERMOSTATS; REQUIRE THE REMOVAL OF ALL FLUORESCENT LIGHTS AND MERCURY THERMOSTATS FROM BUILDINGS PRIOR TO DEMOLITION; AND BAN MERCURY-CONTAINING PRODUCTS FROM UNLINED LANDFILLS.

☒ With a favorable report as to House Committee Substitute Bill 2, which changes the title, unfavorable as to House Committee Substitute Bill 1, and recommendation that House Committee Substitute Bill 2 be re-referred to the Committee on JUDICIARY I.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

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May 28, 2010

Swimming Through the Spill ...

By SUSAN D. SHAW

Blue Hill, Me.

FOR the last few days, attention has understandably been directed at the shores of the Gulf Coast as oil has started to wash up on beaches and in marshes. But last week I had the chance to see the effects of the spill from another perspective — when I dived into the oil slick a few miles off the Pass a Loutre wetlands in southern Louisiana. What I witnessed was a surreal, sickening scene beyond anything I could have imagined.

As the boat entered the slick, I had to cover my nose to block the fumes. There were patches of oil on the gulf's surface. In some places, the oil has mixed with an orange-brown pudding-like material, some of the 700,000 gallons of a chemical dispersant called Corexit 9500 that BP has sprayed on the spreading oil. Near Rig No. 313, technically a restricted zone, the boat stopped and I (wearing a wetsuit, with Vaseline covering exposed skin) jumped in.

Only a few meters down, the nutrient-rich water became murky, but it was possible to make out tiny wisps of phytoplankton, zooplankton and shrimp enveloped in dark oily droplets. These are essential food sources for fish like the herring I could see feeding with gaping mouths on the oil and dispersant. Dispersants break up the oil into smaller pieces that then sink in the water, forming poisonous droplets — which fish can easily mistake for food.

Though all dispersants are potentially dangerous when applied in such volumes, Corexit is particularly toxic. It contains petroleum solvents and a chemical that, when ingested, ruptures red blood cells and causes internal bleeding. It is also bioaccumulative, meaning its concentration intensifies as it moves up the food chain.

The timing for exposure to these chemicals could not be worse. Herring and other small fish hatch in the spring, and the larvae are especially vulnerable. As they die, disaster looms for the larger predator fish, as well as dolphins and whales.

As I swam back to the surface, some big fish came up to the boat — cobia, amberjacks weighing up to 60 pounds — looking for a handout. These are the fish that have made the Gulf a famously productive fishing area. But they rely on the forage fish that are now being devastated by the combined effects of oil and chemical dispersants. In a short time, the predator fish will either starve or sicken and die from eating highly contaminated forage fish.

Yes, the dispersants have made for cleaner beaches. But they're not worth the destruction they cause at sea, far out of sight. It would be better to halt their use and just siphon and skim as much of the oil off the surface as we can. The Deepwater Horizon spill has done enough damage, without our adding to it.

Susan D. Shaw is a marine toxicologist and the director of the Marine Environmental Research Institute, a nonprofit scientific research and educational organization.

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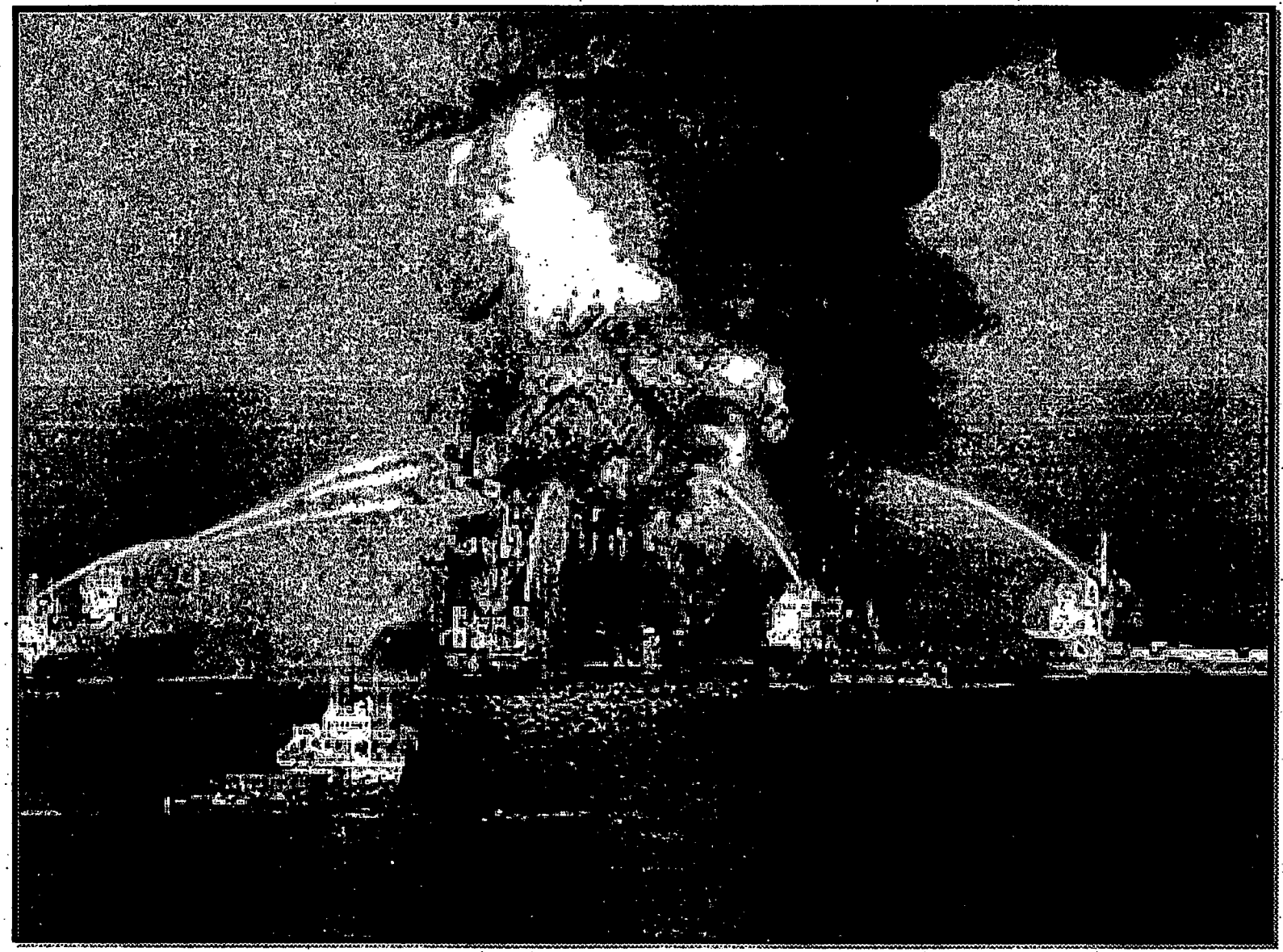
IT COULD HAPPEN HERE!



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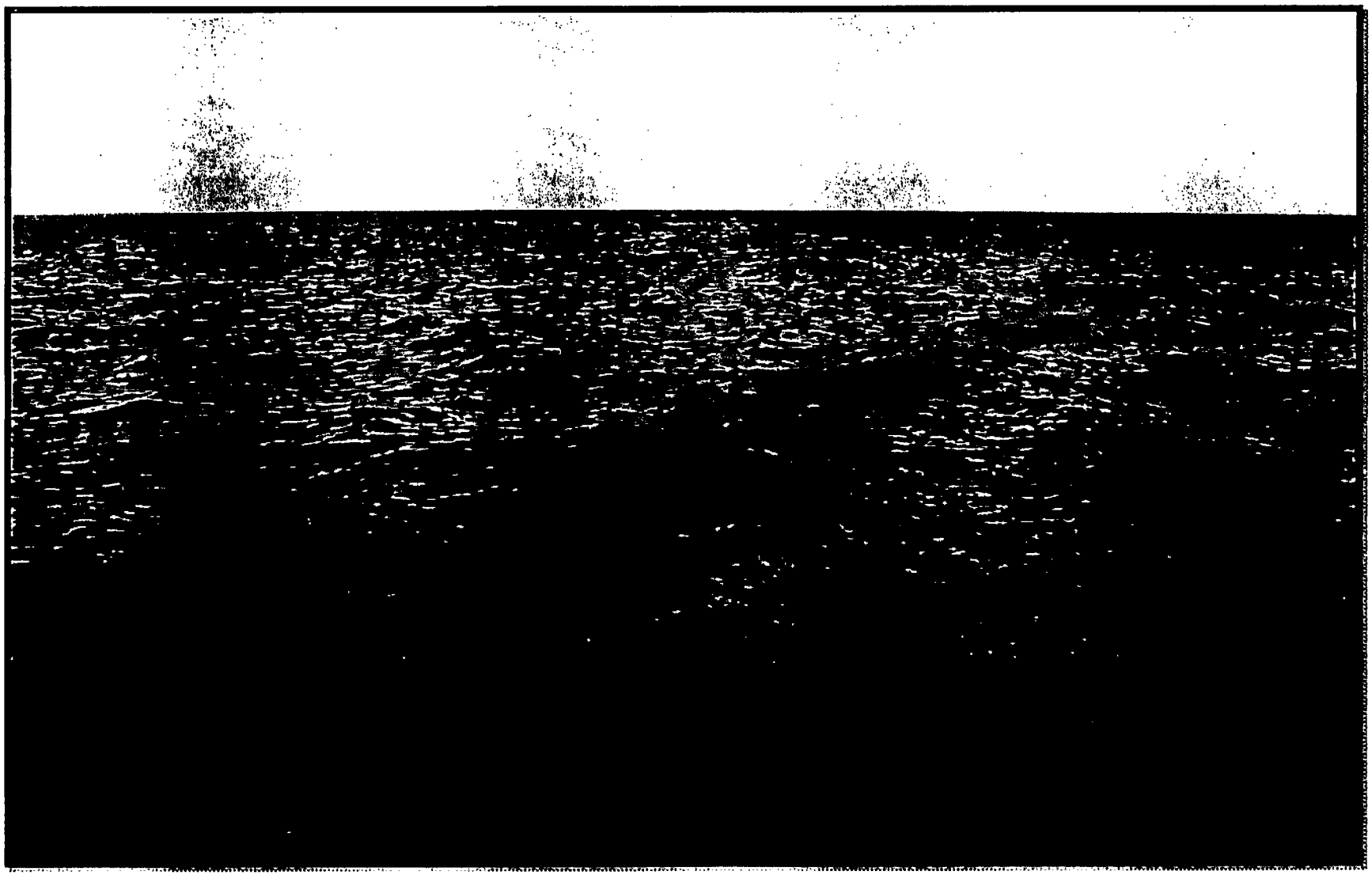

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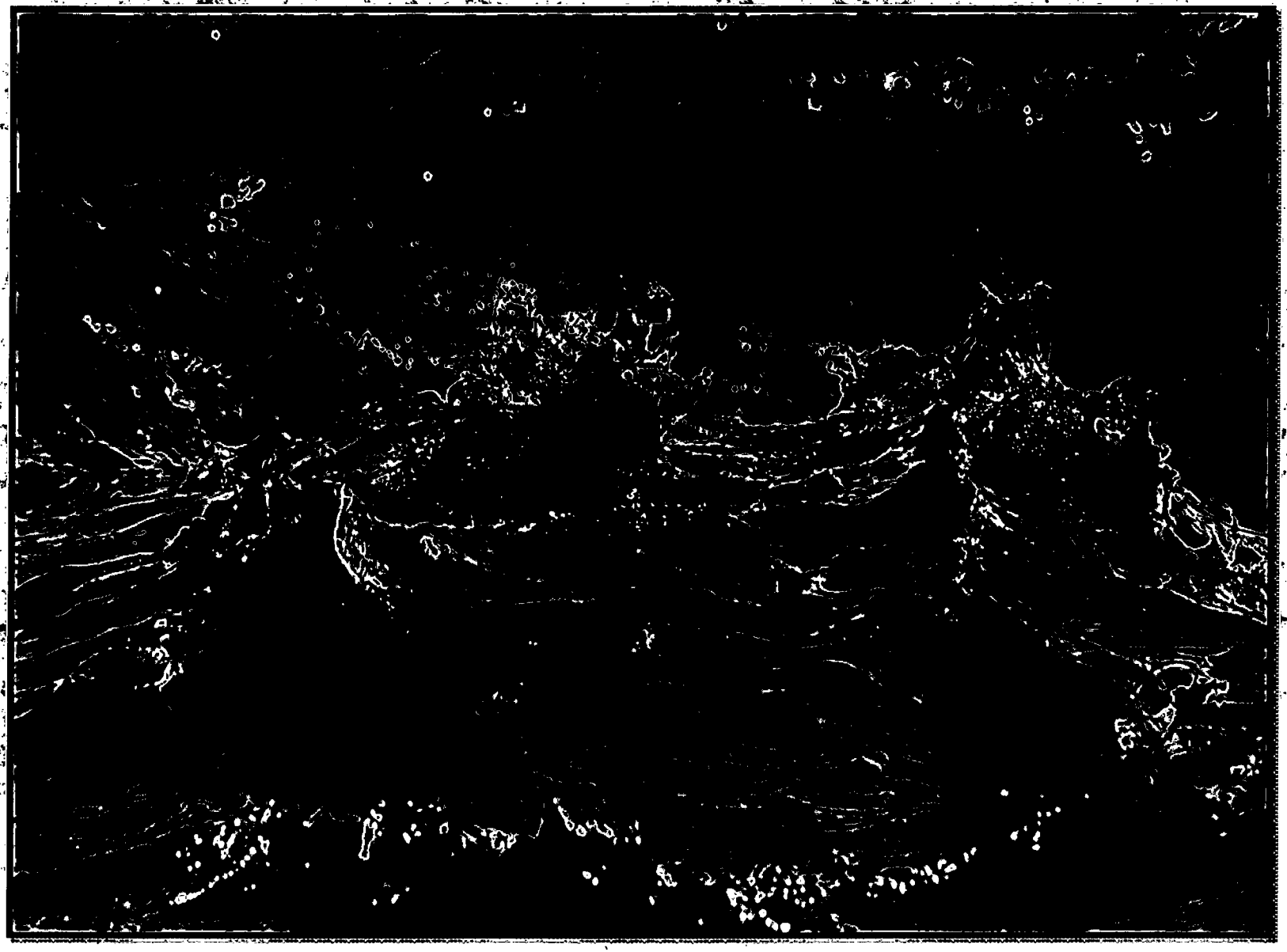

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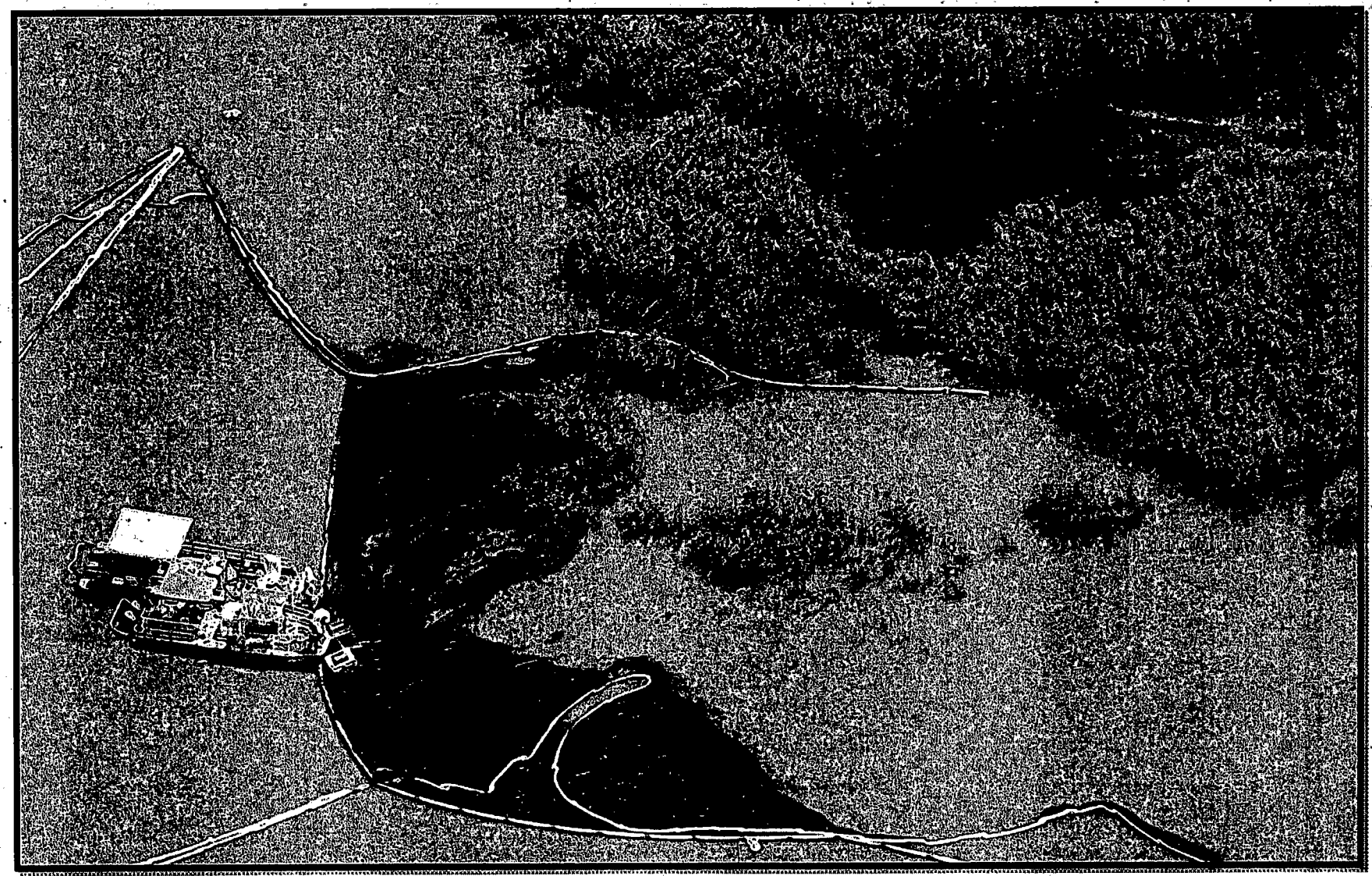

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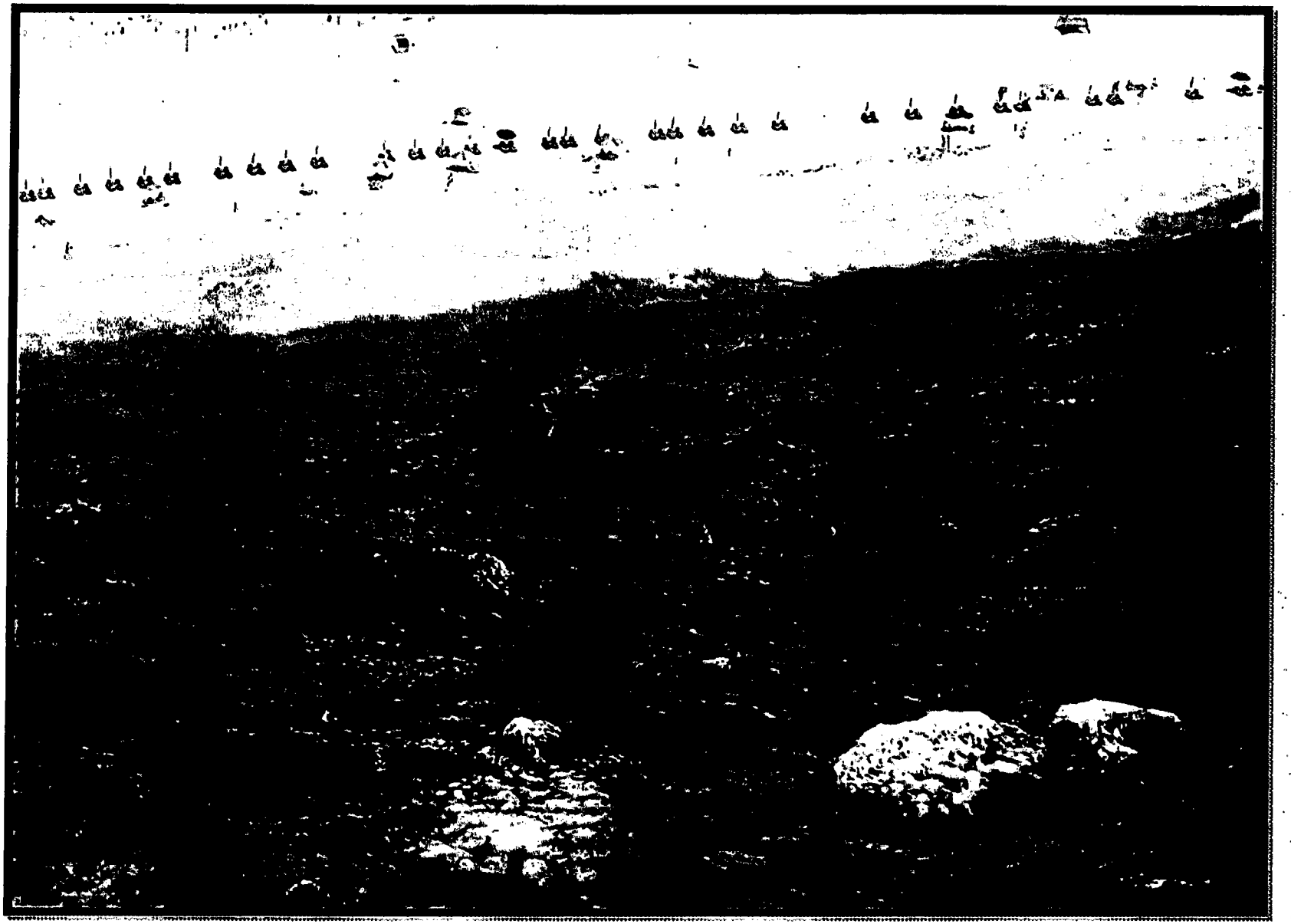

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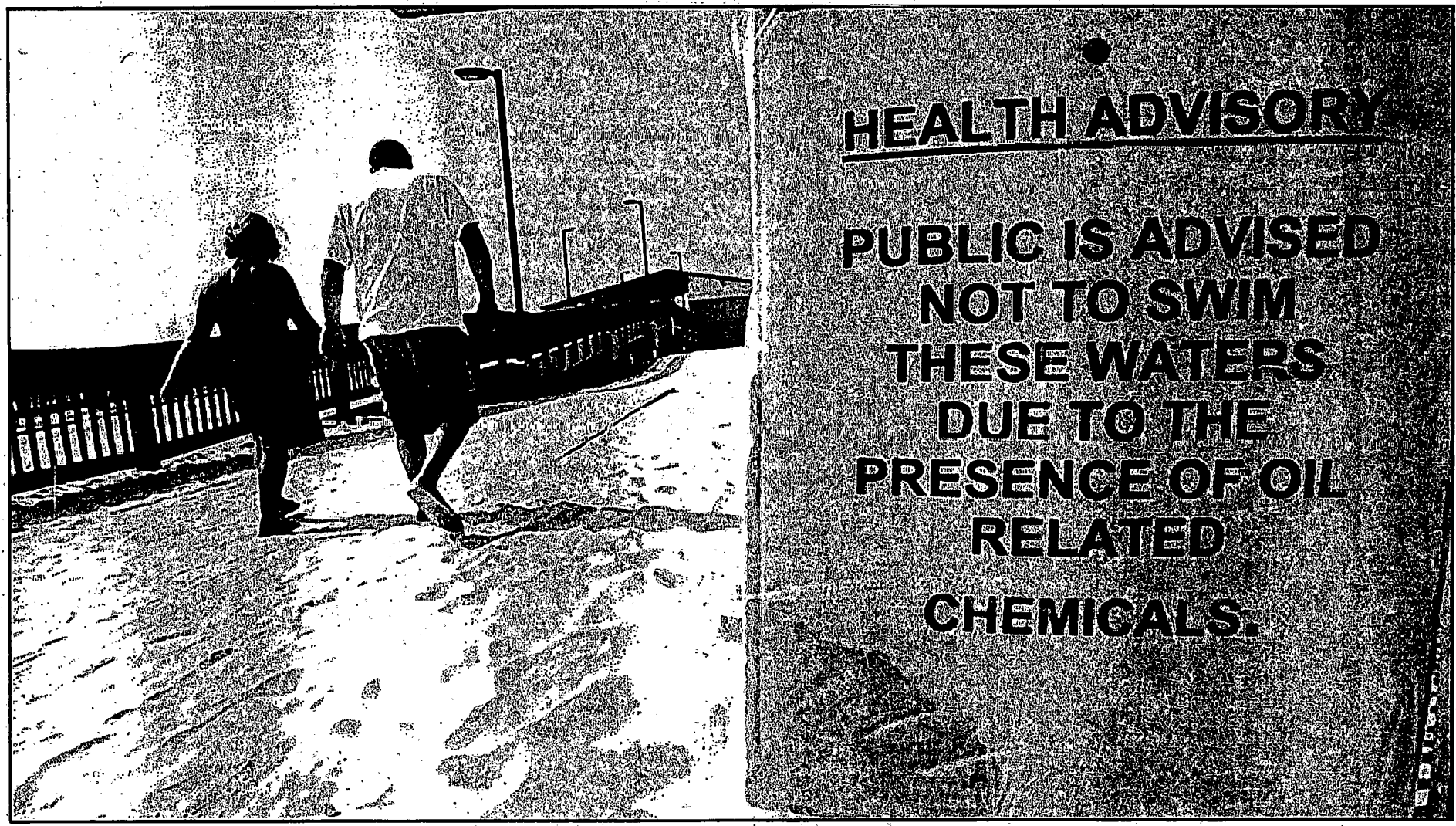

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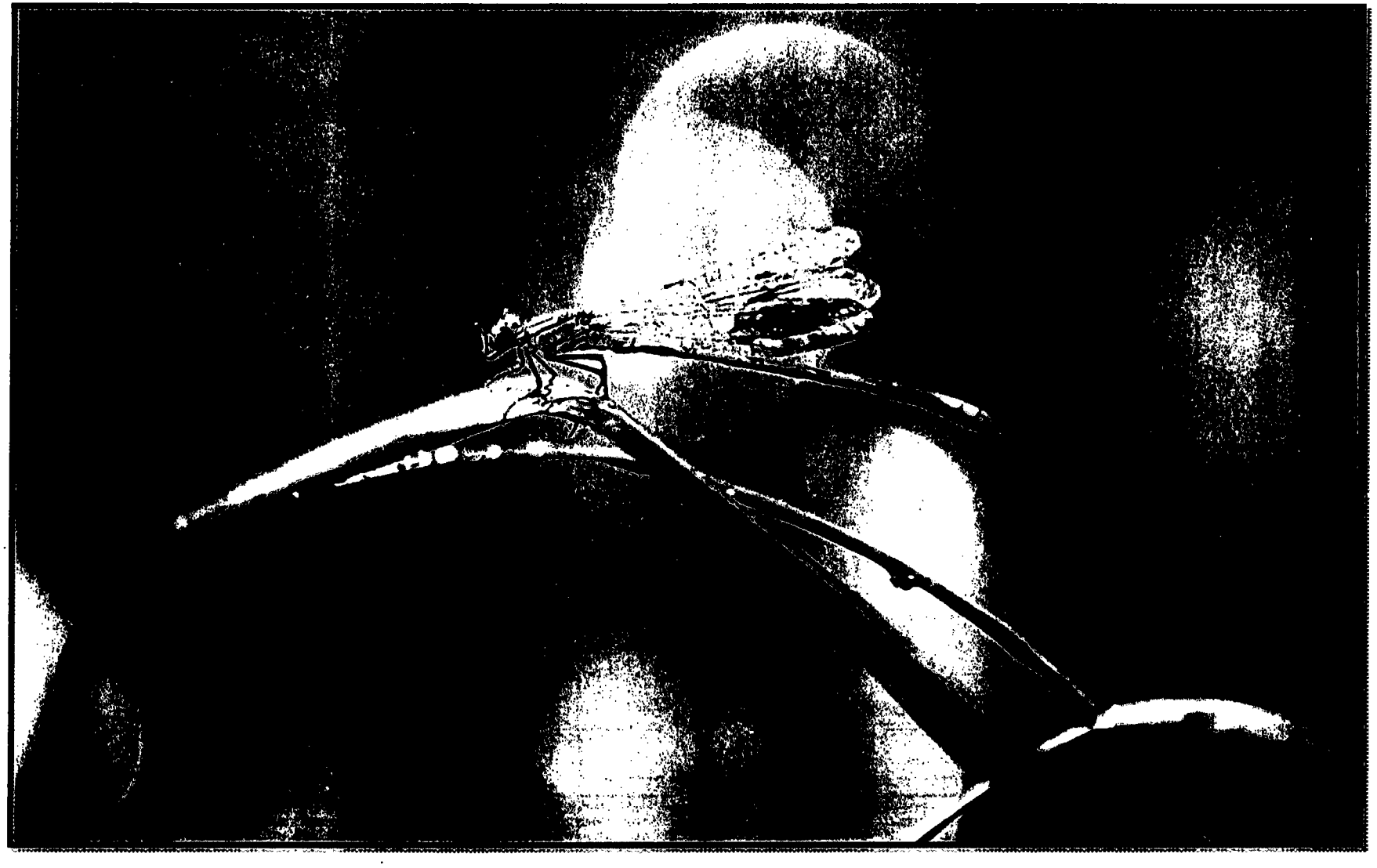

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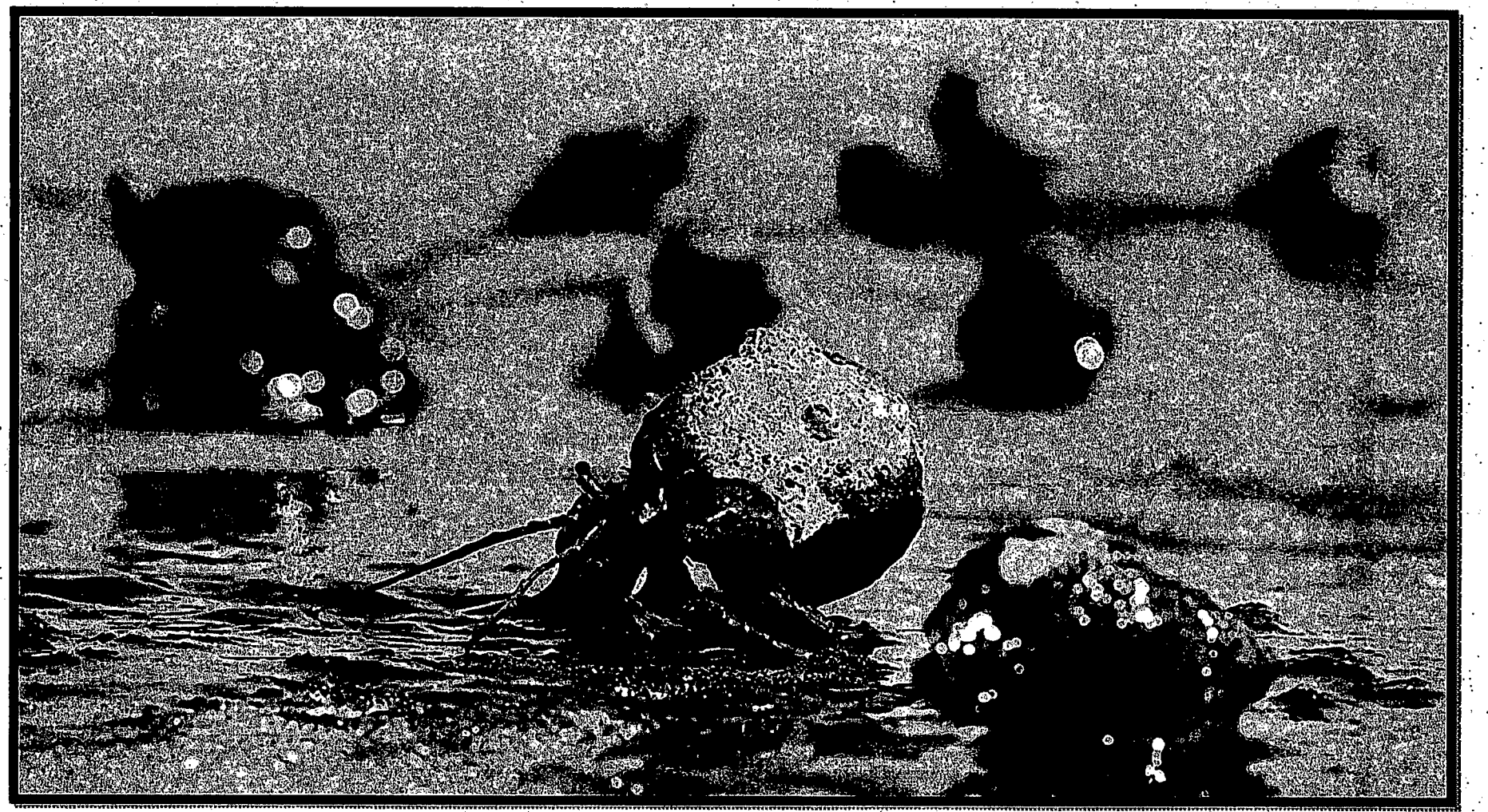

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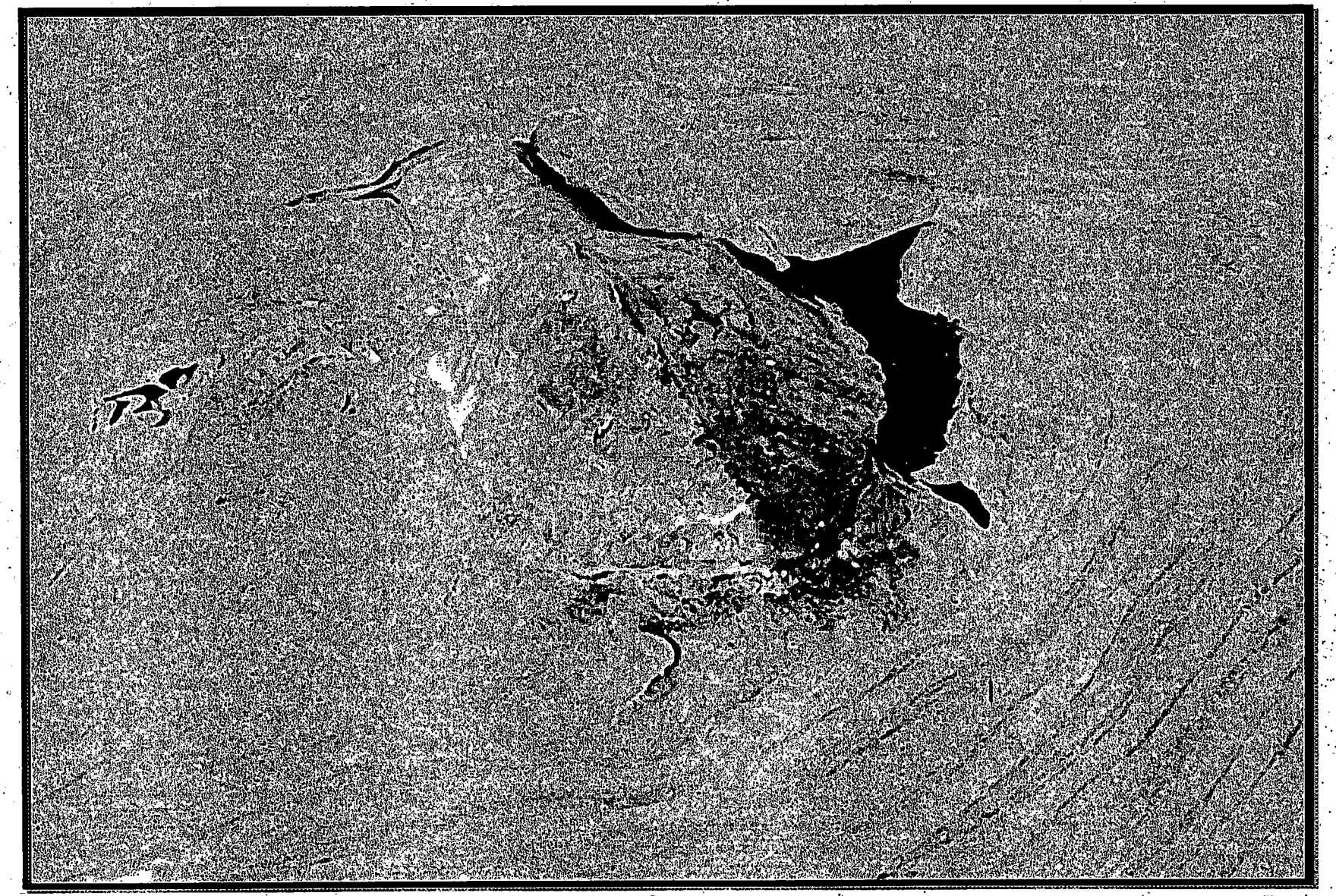

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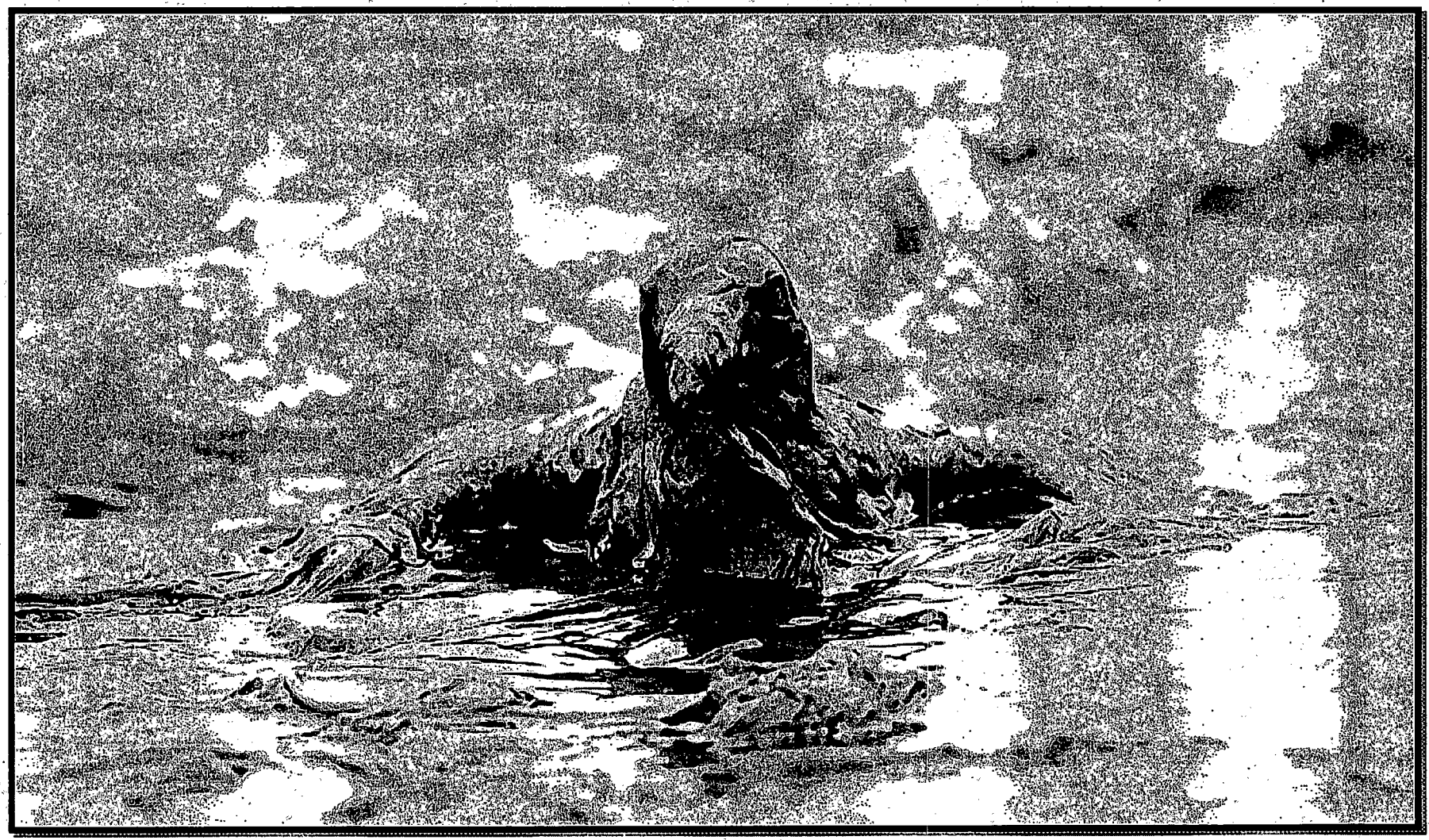

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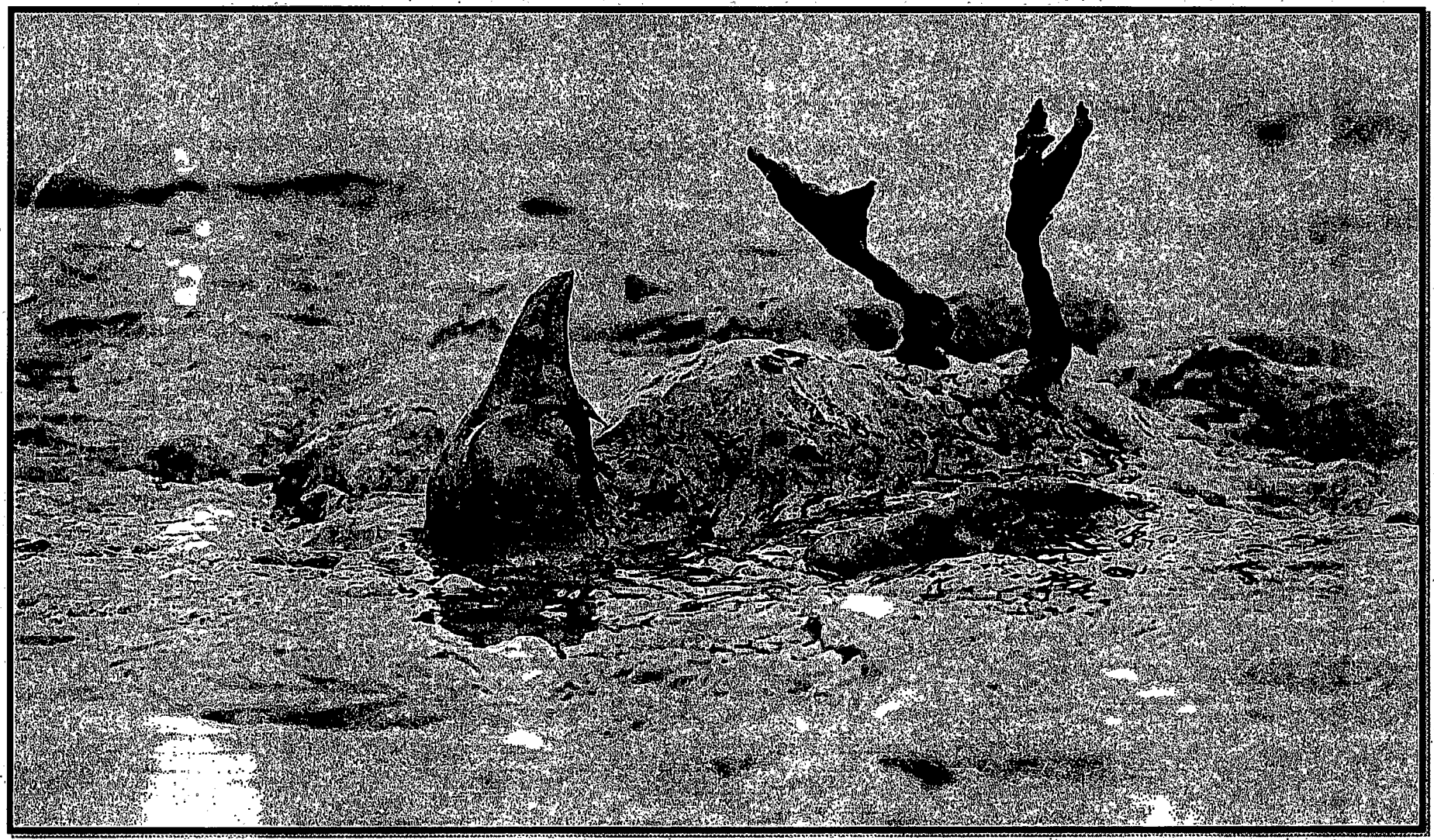
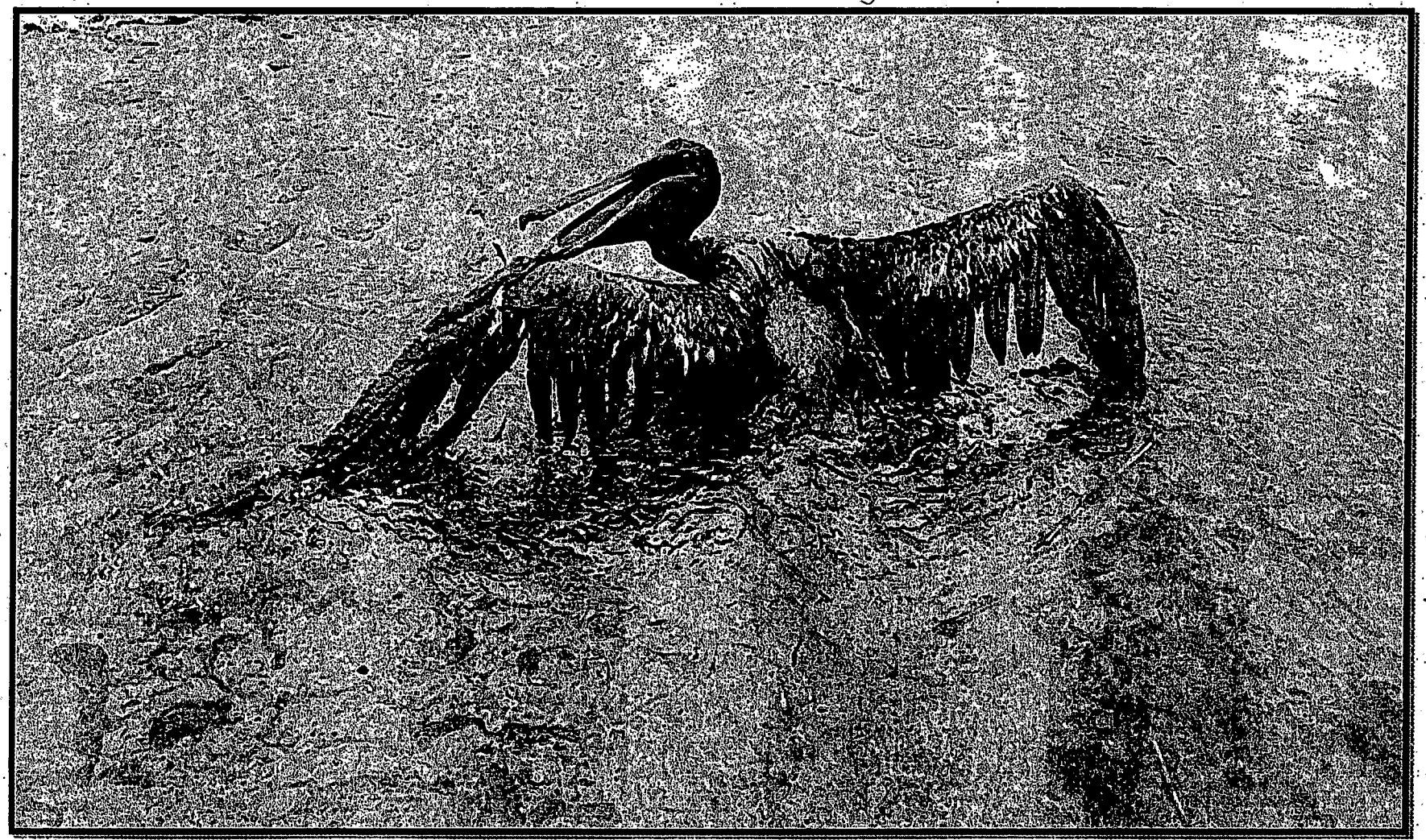


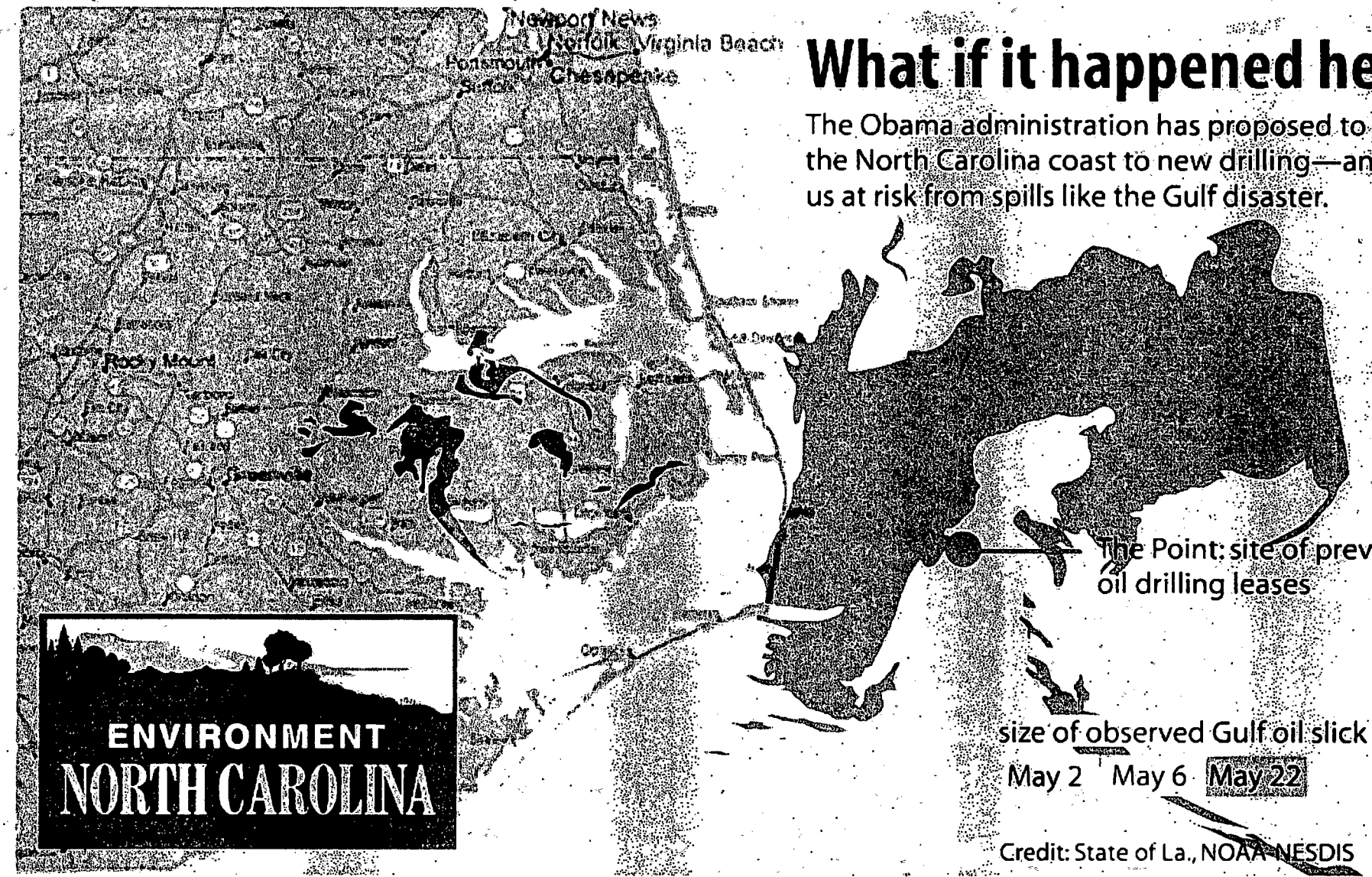
IT COULD HAPPEN HERE!



IT COULD HAPPEN HERE!

What if it happened here?

The Obama administration has proposed to open the North Carolina coast to new drilling—and put us at risk from spills like the Gulf disaster.



ENVIRONMENT
NORTH CAROLINA

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

June 10, 2010

SPEAKERS: PLEASE SIGN IN BELOW

Name & Title	Representing (Agency/Company)	Bill #	Support/ Oppose
Margaret Hartzell	Environment North Carolina	836	support
Drew Ball	NC Sierra Club	836	support
Tom Bean	NCWF, NLEDF		
[illegible]	[illegible]		
D			

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 10, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Rella Hamm	Weyerhaeuser
Ben Matthews	NCDPT
Brian Dempsey	MWC
Stephanie Kass	NCGA
Ellen Lorscheider	NCDENR
Justin Lockamy	NC DENR
DAVID BARNES	Poyner Spruill
Andrew Meehan	Capstrat
Cameron Hanly	Electricities of NC
Jay Rouse	Citizens Against Time Warner Cable
Patrick Buffkin	NCAEC

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 10, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
JOHN SHAW	CAPITAL GROUP, SIERRA CLUB
Sharon Miller	CUCA
Piggie Potter, JR.	NCDS & NCPTA
Sam Walker	Rep Kelly Alexander
Chris Velasco	NC Golf Course Superintendents Assoc
Jim Johnson	BSA
[illegible]	NSA
Bobby Jones	Biogen Ch of NC
Doug Austin	NC STA
Jim Hall	NCBA / NLBCA
Rob Lamm	PLA

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 10, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lu-Ann Chatham	MCIC
Dr. Ann Harris	LAHA
Jack Gozart	NSS
Fran Valluzzo	Dell
Chris Neaville	Withers & Ravenel
Tom McKittrick	FORSITE
Nick Ammann	Apple
BRUCE THOMAS	PACKER POE

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 10, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Margaret Hartzell	Environment North Carolina
Gabriell Vives	Environment North Carolina
Tara Steinmetz	Environment North Carolina
Dan Conrad	NCCN
Melissa Abrams	NCCN
Hassan Khan	NLCN
Will Culpepper	MVA
Daniel Amburn	ElectriCities
CS Hollis	TSS
John Monaghan	Piedmont Natural Gas
Peter Gehred	CCNC
TOM BEAN	PCWG, NCEDF

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — **Name of Committee**

June 10, 2010 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Penny Griffin	School of Gov.
Aranzazu Lascurain	NC Gen Assembly
Whitney Campbell	Jordan Price
Vinberlie Rankin	Sierra Club
Jessica Ritter	EDF
David Kelly	EDF
[illegible] (Rick Ingram)	Rep. Ray Rapp
Hoel Wiesner	Rep. Deborah Ross
Carl Mackenzie	Sierra Club
David Heinen	NC Center for Nonprofits
Emily Schieffer	NC Conservation Network

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 10, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Grady McCallie	NC Conservation Network
Drew Ball	NC Sierra Club
Sage Boyd	intern - Rep. Martin
Elizabeth Bise	DENR
Molly Diggins	Sierra Club
Robin Smith	DENR
Janie Hauser	DENR
Jordan Green	YES! Weekly (media)

HOUSE PAGES

NAME OF COMMITTEE ENVIRONMENT & NATURAL RESOURCES DATE 06-10-10

1. Name: MORGAN McCULLERS
   County: WAKE
   Sponsor: REP. GILL
2. Name: JULIE GRABOWSKI
   County: WAKE
   Sponsor: REP. STAM
3. Name: RODDERICK MALLORY
   County: HALIFAX
   Sponsor: REP. MAY
4. Name: _____
   County: _____
   Sponsor: _____
5. Name: _____
   County: _____
   Sponsor: _____

SGT-AT-ARM

1. Name: FRED HINES
2. Name: JOHN BRANDON
3. Name: YOUNG BAE Y
4. Name: BILL BASS
5. _: MARVIN LEE

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

JUNE 15, 2010

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Tuesday, June 15, 2010, in room 643 of the Legislative Office Building. Representative Alice Underhill presided. Members present were: Representatives Gillespie, Harrison, and Tarleton, Vice-Chairs; Representatives K. Alexander, Blackwood, Floyd, Gibson, Haire, Insko, Killian, Luebke, Martin, May, McElraft, Samuelson, West, and Womble.

Representative Underhill called the meeting to order at 12:02 p.m. She began by introducing the pages for the day and the sergeant-at-arms staff assigned to the meeting (list attached).

The first item on the agenda was Committee Substitute for House Bill 1746 - A BILL TO BE ENTITLED AN ACT TO ESTABLISH A TASK FORCE TO DEVELOP RECOMMENDATIONS REGARDING A STATEWIDE WATER AND WASTEWATER INFRASTRUCTURE RESOURCE AND FUNDING DATABASE, AS RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON WATER AND WASTEWATER INFRASTRUCTURE. Representative Underhill indicated that a proposed committee substitute was being distributed that combined the texts of HB 1746 and HB 1749. Representative Tarleton made a motion for the PCS to be before the committee for consideration. A single question from Representative Blackwood was satisfactorily addressed by Representative Tarleton, who presented the bill. Representative Haire made a motion for a favorable report as to Committee substitute bill 2, which changes the title, unfavorable as to Committee Substitute Bill 1. This motion passed without objection.

Committee Substitute for HB 1747 - A BILL TO BE ENTITLED AN ACT TO REQUIRE A LOCAL GOVERNMENT THAT PROVIDES PUBLIC WATER SERVICE OR A COMMUNITY WATER SYSTEM TO REVISE ITS LOCAL WATER SUPPLY PLAN TO ADDRESS FORESEEABLE FUTURE WATER NEEDS WHEN EIGHTY PERCENT OF THE WATER SYSTEM'S AVAILABLE WATER SUPPLY HAS BEEN ALLOCATED OR WHEN SEASONAL DEMAND EXCEEDS NINETY PERCENT, AS RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON WATER AND WASTEWATER INFRASTRUCTURE was next to be presented. Representative Crawford, one of the primary sponsors, was called upon to explain the bill to the committee. Questions and comments were satisfactorily addressed before Representative Tarleton made a motion for a favorable report. This motion passed unanimously.

At this point, Representative Underhill recognized Adam Schafer, the Executive Director of the National Caucus of Environmental Legislation, Washington, DC, who was among the visitors.

Next on the agenda was Senate Committee Substitute for SB 887 - A BILL TO BE ENTITLED AN ACT TO MAKE FURTHER SUBSTANTIVE, CLARIFYING, TECHNICAL, AND CONFORMING AMENDMENTS TO THE LAWS GOVERNING THE MANAGEMENT OF DISCARDED COMPUTER EQUIPMENT AND DISCARDED TELEVISIONS. Representative Underhill noted that a proposed committee substitute for this bill had been before the committee, but was tabled at the June 8th meeting. Representative Gibson was called upon to continue as the

bill's presenter as discussion of the bill was resumed. Representative Alexander was recognized to withdraw amendment #1, which had also been tabled at the June 8th meeting. In its place, he sent forth amendment #2 (copy attached). Several committee members spoke as did members of the audience. Speakers were: Bruce Thompson, representing Apple Computers, who expressed concerns saying there was an existing law in place that needed only to be expanded; Jack Cozort with Dell Computers, who said his client liked the amendment; Nick Tosca with the North Carolina League of Municipalities and Kevin Leonard with the North Carolina Association of County Commissioners said they believed some action needed to be taken during this session and were, therefore, in support of the bill; and Drew Ball with the North Carolina Sierra Club spoke in favor of the bill and amendment. At this point several committee members addressed questions to the speakers and to staff. Representative Underhill called for a vote on Representative Kelly Alexander's amendment #2, which passed unanimously. Representative Alexander then made a motion for a favorable report as to House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill and recommendation that the House committee substitute bill be referred to the Committee on Commerce, Small Business, and Entrepreneurship. This motion passed without objection.

The next item on the agenda was HB 1870 - A BILL TO BE ENTITLED AN ACT TO (1) REQUIRE LOCAL GOVERNMENTS TO ADOPT ORDINANCES TO REGULATE SITE PLANNING, DESIGN, AND CONSTRUCTION OF ARTIFICIAL SLOPES IN MOUNTAINOUS AREAS TO PROMOTE SAFE AND STABLE SLOPES FOR DEVELOPMENT, TO REDUCE THE LIKELIHOOD OF SLOPE FAILURES ON DEVELOPED OR DISTURBED LAND, AND TO PROTECT HUMAN SAFETY AND PROPERTY; AND (2) DIRECT THE SEDIMENTATION CONTROL COMMISSION TO ASSIST LOCAL GOVERNMENTS IN DEVELOPMENT AND IMPLEMENTATION OF SAFE SLOPE CONSTRUCTION PROGRAMS AND TO DEVELOP A MODEL ORDINANCE. Representative Goforth was recognized to present the bill. He asked for assistance from Jennifer McGinnis, Committee Counsel. Representative Gillespie presented amendment #1 (copy attached) for consideration. Jim Simons, State Geologist with the Department of Environment and Natural Resources was called upon to answer some specific questions posed by committee members. After a lengthy discussion, Representative Underhill called for a vote on amendment #1, which failed by a vote of 8 (no) to 7 (yea).

At this point, Representative Underhill indicated that the time allotted for the meeting had expired and that the bill would be tabled until further notice. The meeting then adjourned at 12:50 p.m.

Respectfully submitted,

Alice G. Underhill
Representative Alice Underhill, Chair

Shara Graham
Shara Graham, Committee Assistant

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE MEETING

June 15, 2010
12:00 NOON
Room 643 LOB

Representative Underhill, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

SB 887 - Amend Electronics Recycling Law
Primary Sponsor: Sen. Vaughan

HB 1870 - Safe Artificial Slope Construction Act
Primary Sponsors: Reps. Goforth, Whilden

HB 1746 - Water Infrastructure Database/Task Force
Primary Sponsors: Reps. Crawford, Gillespie, Owens, Tarleton

HB 1747 - Water Supply System Capacity Planning
Primary Sponsors: Reps. Crawford, Gillespie, Owens, Tarleton

HB 1749 - Water Infrastructure Needs/Close Info. Gaps
Primary Sponsors: Reps. Crawford, Gillespie, Owens, Tarleton

ADJOURNMENT

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 1746*
Committee Substitute Favorable 6/9/10

Short Title: Water Infrastructure Database/Task Force. (Public)

Sponsors:

Referred to:

May 18, 2010

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A TASK FORCE TO DEVELOP RECOMMENDATIONS REGARDING A STATEWIDE WATER AND WASTEWATER INFRASTRUCTURE RESOURCE AND FUNDING DATABASE, AS RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON WATER AND WASTEWATER INFRASTRUCTURE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Department of Environment and Natural Resources, the Department of Commerce, the Department of State Treasurer, the Clean Water Management Trust Fund, the State Water Infrastructure Commission, the Office of Information Technology Services, the North Carolina League of Municipalities, the North Carolina Association of County Commissioners, the Rural Economic Development Center, and the Environmental Finance Center at the School of Government at the University of North Carolina at Chapel Hill shall establish a task force to recommend a plan for the establishment and maintenance of a statewide water and wastewater infrastructure resource and funding database, or alternative information systems or processes that are capable of consolidating and integrating statewide information on water and wastewater infrastructure needs, resources, and funding and making this information more accessible to applicants, government agencies, and policymakers. The Department of Environment and Natural Resources shall be the lead agency for the task force. The task force may also work with other interested stakeholders in its discretion.

SECTION 1.(b) The task force shall consider the relative merits of a database and any proposed alternatives, taking into account estimated costs and the ability of each to meet the goals outlined in subsection (a) of this section. In analyzing a database, the task force shall identify options for database system design and structure and delineate the categories of information to be compiled and indexed.

SECTION 1.(c) The task force shall present its proposed plan and report its findings and recommendations to the Legislative Study Commission on Water and Wastewater Infrastructure no later than November 1, 2010. The report shall include any legislative changes that may be needed to implement the proposed plan.

SECTION 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 1749*
Committee Substitute Favorable 6/9/10

Short Title: Water Infrastructure Needs/Info Gaps. (Public)

Sponsors:

Referred to:

May 18, 2010

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, IN CONJUNCTION WITH OTHER INTERESTED PARTIES, TO DEVELOP A STATEWIDE SURVEY TO SUPPLEMENT THE CURRENT INFORMATION USED TO ASSESS THE STATE'S WATER AND WASTEWATER INFRASTRUCTURE NEEDS AND DEVELOP A PLAN FOR INCORPORATING THE INFORMATION COMPILED FROM THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY SURVEY INTO THE STATE WATER SUPPLY PLAN, AS RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON WATER AND WASTEWATER INFRASTRUCTURE.

Whereas, the two primary sources of data currently available to determine the State's water and wastewater needs include the United States Environmental Protection Agency surveys of publicly owned water and wastewater systems conducted every four years by the Department of Environment and Natural Resources and the North Carolina Rural Economic Development Center Water 2030 Initiative; and

Whereas, the Water 2030 Initiative, completed in 2005, provides a snapshot of projected water and wastewater infrastructure needs through 2030, but was funded as a onetime overview, and has not been fully updated since 2005; and

Whereas, while both the United States Environmental Protection Agency surveys and Water 2030 Initiative are useful tools, there continue to be gaps in the information used to determine the State's water and wastewater infrastructure needs, particularly with regard to economic development and growth-related infrastructure needs, water system efficiency measures, and costs related to the development of new water sources; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Task Force. – The Department of Environment and Natural Resources, the Department of Commerce, the Department of State Treasurer, the Clean Water Management Trust Fund, the State Water Infrastructure Commission, the Office of Information Technology Services, the North Carolina League of Municipalities, the North Carolina Association of County Commissioners, the Rural Economic Development Center, and the Environmental Finance Center at the School of Government at the University of North Carolina at Chapel Hill shall establish a task force to improve the collection and utilization of information related to State water and wastewater infrastructure needs. The Department of Environment and Natural Resources shall be the lead agency of the task force, and the task force may work with other interested stakeholders in its discretion. The responsibilities and duties of the task force shall include all of the following:

(1) To develop a statewide survey to build on the base of the existing United States Environmental Protection Agency water and wastewater infrastructure

survey process that will provide a more accurate assessment of statewide water and wastewater infrastructure needs.

a. The survey shall be designed to address the following information gaps that have been identified in the current information sources:
   1. Information on water and wastewater infrastructure needs related to economic development and population growth.
   2. Information on water and wastewater system service areas.
   3. Information on drinking water needs relevant to determining the need and the cost of proposed reservoir construction.
   4. Information on infrastructure needs to address failing water and wastewater systems.
   5. Information on the infrastructure needs related to water system efficiency to address the issue of water loss.

b. The task force shall consider how often the information provided by the survey should be updated.

c. The task force shall consider how often to update the survey, and how best to formulate and summarize the survey results on the State's combined water and wastewater infrastructure needs in a concise and easily understood format for use by the General Assembly. The task force shall prepare a model report based on this format.

(2) To develop a plan to incorporate relevant information obtained from the existing United States Environmental Protection Agency survey and any statewide survey developed pursuant to subdivision (1) of this section into the State water supply plan developed pursuant to G.S. 143-355(m). In devising the plan to incorporate the needs survey information into the State water supply plan, the Department shall consider possible modifications to the information collected as part of the local water supply plans or the methodology used to prepare the local water supply plans that would make it easier to incorporate the needs survey information into the State water supply plan.

SECTION 2. Report. – The Department of Environment and Natural Resources shall report the findings and recommendations of the task force to the Legislative Study Commission on Water and Wastewater Infrastructure by November 1, 2010. The report shall include the estimated cost to implement the recommendations and any legislative changes required to implement the recommendations.

SECTION 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1746*
Committee Substitute Favorable 6/9/10
PROPOSED COMMITTEE SUBSTITUTE H1746-PCS80632-SY-17

Short Title: Water Infrastructure Information Needs. (Public)

Sponsors:

Referred to:

May 18, 2010

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, IN CONJUNCTION WITH OTHER INTERESTED PARTIES, TO ESTABLISH A TASK FORCE TO: (1) DEVELOP A STATEWIDE SURVEY TO SUPPLEMENT THE CURRENT INFORMATION USED TO ASSESS THE STATE'S WATER AND WASTEWATER INFRASTRUCTURE NEEDS; (2) DEVELOP A PLAN FOR INCORPORATING THE INFORMATION COMPILED FROM THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY SURVEY INTO THE STATE WATER SUPPLY PLAN; AND (3) DEVELOP RECOMMENDATIONS REGARDING A STATEWIDE WATER AND WASTEWATER INFRASTRUCTURE RESOURCE AND FUNDING DATABASE, AS RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON WATER AND WASTEWATER INFRASTRUCTURE.

Whereas, the two primary sources of data currently available to determine the State's water and wastewater needs include the United States Environmental Protection Agency surveys of publicly owned water and wastewater systems conducted every four years by the Department of Environment and Natural Resources and the North Carolina Rural Economic Development Center Water 2030 Initiative; and

Whereas, the Water 2030 Initiative, completed in 2005, provides a snapshot of projected water and wastewater infrastructure needs through 2030, but was funded as a onetime overview, and has not been fully updated since 2005; and

Whereas, while both the United States Environmental Protection Agency surveys and Water 2030 Initiative are useful tools, there continue to be gaps in the information used to determine the State's water and wastewater infrastructure needs, particularly with regard to economic development and growth-related infrastructure needs, water system efficiency measures, and costs related to the development of new water sources; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Task Force. – The Department of Environment and Natural Resources, the Department of Commerce, the Department of State Treasurer, the Clean Water Management Trust Fund, the State Water Infrastructure Commission, the Office of Information Technology Services, the North Carolina League of Municipalities, the North Carolina Association of County Commissioners, the Rural Economic Development Center, and the Environmental Finance Center at the School of Government at the University of North Carolina at Chapel Hill shall establish a task force to improve the collection and utilization of

information related to State water and wastewater infrastructure needs. The Department of Environment and Natural Resources shall be the lead agency for the task force. The task force may also work with other interested stakeholders in its discretion. The responsibilities and duties of the task force shall include all of the following:

(1) To develop a statewide survey to build on the base of the existing United States Environmental Protection Agency water and wastewater infrastructure survey process that will provide a more accurate assessment of statewide water and wastewater infrastructure needs.

a. The survey shall be designed to address the following information gaps that have been identified in the current information sources:

1. Information on water and wastewater infrastructure needs related to economic development and population growth.
2. Information on water and wastewater system service areas.
3. Information on drinking water needs relevant to determining the need and the cost of proposed reservoir construction.
4. Information on infrastructure needs to address failing water and wastewater systems.
5. Information on the infrastructure needs related to water system efficiency to address the issue of water loss.

b. The task force shall consider how often the information provided by the survey should be updated.

c. The task force shall consider requesting information to update the Water 2030 Initiative as part of the survey design.

d. The task force shall consider how often to update the survey, and how best to formulate and summarize the survey results on the State's combined water and wastewater infrastructure needs in a concise and easily understood format for use by the General Assembly. The task force shall prepare a model report based on this format.

(2) To develop a plan to incorporate relevant information obtained from the existing United States Environmental Protection Agency survey and any statewide survey developed pursuant to subdivision (1) of this section into the State water supply plan developed pursuant to G.S. 143-355(m). In devising the plan to incorporate the needs survey information into the State water supply plan, the task force shall consider possible modifications to the information collected as part of the local water supply plans or the methodology used to prepare the local water supply plans that would make it easier to incorporate the needs survey information into the State water supply plan.

(3) To recommend a plan for the establishment and maintenance of a statewide water and wastewater infrastructure resource and funding database, or alternative information systems or processes that are capable of consolidating and integrating statewide information on water and wastewater infrastructure needs, resources, and funding and making this information more accessible to applicants, government agencies, and policymakers. The task force shall consider the relative merits of a database and any proposed alternatives, taking into account estimated costs and the ability of each to meet the goals outlined in this section. In analyzing a database, the task force shall identify options for database system design and structure and delineate the categories of information to be compiled and indexed.

SECTION 2. Report. – The Department of Environment and Natural Resources shall report the findings and recommendations of the task force to the Legislative Study

Commission on Water and Wastewater Infrastructure by November 1, 2010. The report shall include the estimated cost to implement the recommendations and any legislative changes required to implement the recommendations.

SECTION 3. This act is effective when it becomes law.

HOUSE BILL 1746:
Water Infrastructure Information Needs

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	June 15, 2010
Introduced by:	Reps. Crawford, Gillespie, Owens, Tarleton	**Prepared by:**	Tim Dodge Committee Counsel
Analysis of:	PCS to Second Edition H1746-CSSY-17 [v.3]		

SUMMARY: ***The Proposed Committee Substitute (PCS) for House Bill 1746 directs the Department of Environment and Natural Resources (DENR), in conjunction with other interested parties, to establish a task force to: (1) develop a statewide survey to supplement the current information used to assess the State's water and wastewater infrastructure needs; (2) develop a plan for incorporating the information compiled from the United States Environmental Protection Agency (USEPA) surveys into the State water supply plan; and (3) establishes a task force to develop a plan for the creation and maintenance of a statewide water and wastewater infrastructure resource and funding database.***

House Bill 1746 was recommended by the Legislative Study Commission on Water and Wastewater Infrastructure. As introduced, this bill was identical to SB 1278, as introduced by Sen. Albertson, which is currently in Senate Agriculture/Environment/Natural Resources.

BILL ANALYSIS: The bill would direct DENR, the Department of Commerce, the Department of tate Treasurer, the Clean Water Management Trust Fund, the State Water Infrastructure Commission, ne North Carolina League of Municipalities, the North Carolina Association of County Commissioners, the Rural Economic Development Center, the Office of Information Technology Services, and the Environmental Finance Center at the School of Government at the University of North Carolina at Chapel Hill to establish a task force to improve the collection and utilization of information related to State water and wastewater infrastructure needs. DENR shall be the lead agency for the task force. The task force may also work with other interested stakeholders in its discretion. The responsibilities and duties of the task force shall include all of the following:

Survey of State water and wastewater infrastructure needs: The task force shall develop a statewide survey to build on the base of the existing USEPA water and wastewater infrastructure survey process that will provide a more accurate assessment of statewide water and wastewater infrastructure needs. The task force may also consider requesting information to update the Water 2030 initiative as part of the survey design.

Plan to incorporate information from needs survey into State water supply plan: The task force would also develop a plan to incorporate information form the USEPA needs survey into the State water supply plan.

Water infrastructure database: The task force would recommend a plan for the establishment and maintenance of a statewide water and wastewater infrastructure resource and funding database, or alternative information systems or processes that are capable of consolidating and integrating statewide information on water and wastewater infrastructure needs, resources, and funding and making this nformation more accessible to applicants, government agencies, and policymakers. The task force shall nsider the relative merits of a database and any proposed alternatives, taking into account estimated

costs and the ability of each to meet the goals of the database. In analyzing the database, the task force shall identify options for database system design and structure and delineate the categories of information to be compiled and indexed.

DENR shall report the findings and recommendations of the task force to the Legislative Study Commission on Water and Wastewater Infrastructure no later than November 1, 2010.

EFFECTIVE DATE: The bill would become effective when it becomes law.

CHANGES MADE IN THE PCS: The PCS combines the provisions of HB 1746 (Water Infrastructure Database/Task Force) and HB 1749 (Water Infrastructure Needs/Close Information Gaps) into one bill, based on the similarity of issues and the similar entities involved on the task force. Both of the bills were recommendations of the Legislative Study Commission on Water and Wastewater Infrastructure.

BACKGROUND: As part of the federal Safe Drinking Water Act, USEPA conducts the Drinking Water Infrastructure Needs Survey and Assessment every four years to assess public water system capital improvement needs. State agencies assist USEPA in conducting the assessment and are primarily responsible for the data collection portion of the USEPA survey.

The Rural Center began implementation of the Water 2030 initiative in 2004. The purpose of Water 2030 was to determine North Carolina's water resource needs for the next 25 years and to provide sound information on which to make policy decisions. The Initiative included broad data collection efforts, water supply and demand projections, analysis of available funding, and public education and outreach.

Various entities, including State and federal agencies, local governments, academic institutions, and non-profits collect information on water infrastructure needs and projects in the State, but this data is not collected or assembled in a unified fashion. Other States, including Kentucky and Georgia, have established state water infrastructure databases similar to the one proposed in this bill.

H1746-SMSY-27(CSSY-17) v1

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representatives Underhill, Harrison, and Tarleton (Vice-Chairs) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒Committee Substitute for

HB 1746 A BILL TO BE ENTITLED AN ACT TO ESTABLISH A TASK FORCE TO DEVELOP RECOMMENDATIONS REGARDING A STATEWIDE WATER AND WASTEWATER INFRASTRUCTURE RESOURCE AND FUNDING DATABASE, AS RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON WATER AND WASTEWATER INFRASTRUCTURE.

☒ With a favorable report as to Committee substitute bill 2, which changes the title, unfavorable as to Committee Substitute Bill 1.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 1747
Committee Substitute Favorable 6/9/10

Short Title: Water Supply System Capacity Planning. (Public)

Sponsors:

Referred to:

May 18, 2010

A BILL TO BE ENTITLED

AN ACT TO REQUIRE A LOCAL GOVERNMENT THAT PROVIDES PUBLIC WATER SERVICE OR A COMMUNITY WATER SYSTEM TO REVISE ITS LOCAL WATER SUPPLY PLAN TO ADDRESS FORESEEABLE FUTURE WATER NEEDS WHEN EIGHTY PERCENT OF THE WATER SYSTEM'S AVAILABLE WATER SUPPLY HAS BEEN ALLOCATED OR WHEN SEASONAL DEMAND EXCEEDS NINETY PERCENT, AS RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON WATER AND WASTEWATER INFRASTRUCTURE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-355(l) reads as rewritten:

"(l) Local Water Supply Plans. – Each unit of local government that provides public water service or that plans to provide public water service and each large community water system shall, either individually or together with other units of local government and large community water systems, prepare a local water supply plan and submit it to the Department for approval. The Department shall provide technical assistance with the preparation of plans to units of local government and large community water systems upon request and to the extent that the Department has resources available to provide assistance. At a minimum, each unit of local government and large community water system shall include in local water supply plans all information that is readily available to it. Plans shall include present and projected population, industrial development, and water use within the service area; present and future water supplies; an estimate of the technical assistance that may be needed at the local level to address projected water needs; current and future water conservation and water reuse programs; a description of how the local government or large community water system will respond to drought and other water shortage emergencies and continue to meet essential public water supply needs during the emergency; and any other related information as the Department may require in the preparation of a State water supply plan. A unit of local government or large community water system shall submit a revised plan that specifies how the water system intends to address foreseeable future water needs when eighty percent (80%) of the water system's available water supply based on calendar year average daily demand has been allocated to current or prospective water users or the seasonal demand exceeds ninety percent (90%). Local plans shall be revised to reflect changes in relevant data and projections at least once each five years unless the Department requests more frequent revisions. The revised plan shall include the current and anticipated reliance by the local government unit or large community water system on surface water transfers as defined by G.S. 143-215.22G. Local plans and revised plans shall be submitted to the Department once they have been approved by each unit of local government and large community water system that participated in the preparation of the plan."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 1747:
Water Supply System Capacity Planning

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	June 15, 2010
Introduced by:	Reps. Crawford, Gillespie, Owens, Tarleton	**Prepared by:**	Tim Dodge
Analysis of:	Second Edition		Committee Counsel

SUMMARY: ***House Bill 1747 would require a local government that provides public water service or a community water system to revise its local water supply plan to address foreseeable future water needs when 80 percent of the water system's available water supply has been allocated or when seasonal demand exceeds 90 percent.***

House Bill 1747 was recommended by the Legislative Study Commission on Water and Wastewater Infrastructure. As introduced, this bill was identical to Senate Bill 1292, as introduced by Senator Hoyle, which is currently in House Water Resources and Infrastructure, if favorable, Environment and Natural Resources.

CURRENT LAW: G.S. 143-355(l) requires all units of local government that provide or plan to provide public water service to prepare a local water supply plan and submit the plan to the Department f Environment and Natural Resources (DENR) for approval. In addition, all community water systems iat regularly serve 1,000 or more service connections or serve more than 3,000 people are required to prepare a local water supply plan. The local plan must include the following information:

- Current and projected population, industrial development, and water use within the service area.
- Current and future water supplies.
- An estimate of the technical assistance that may be needed from DENR to address projected water needs.
- Current and future water conservation and water reuse programs.
- A description of how the local government or large community water system will respond to drought and other water shortage emergencies and continue to meet essential public water supply needs during the emergency (water shortage response plan).
- Any other related information that DENR may require in the preparation of the State water supply plan.

The local plans must be revised to reflect changes in data and projections at least once every five years, but DENR may request more frequent revisions if necessary.

BILL ANALYSIS: House Bill 1747 would require a local government that provides public water service or a large community water system to revise its local water supply plan to address foreseeable ture water needs when 80 percent of the water system's available water supply based on calendar year erage daily demand has been allocated or when seasonal demand exceeds 90 percent.

EFFECTIVE DATE: The bill would become effective when it becomes law.

BACKGROUND:

State and Local Water Supply Plans: The goal of the local water supply plan program is to encourage local governments to look current and future needs to better manage water supplies, plan for water supply system improvements, and prepare for a variety of water shortage situations. In addition, the Division of Water Resources of DENR utilizes the local water supply plans in the development of the State Water Supply Plan, which provides a comprehensive assessment of water supply needs, water use, and water availability across the State, identifies the major water supply issues facing the State now and in the near future, and provides guidance for sound water supply planning.

G.S. 130A-315 authorizes the Commission for Public Health (Commission) to adopt drinking water rules to regulate public water systems, with DENR responsible for enforcing the rules. Specifically, G.S. 130A-315(b1)(4a) authorizes the Commission to adopt rules that would limit the number of service connections to a public water system based on the quantity of water available to the public water system, provided that the number of service connections shall not be limited for a public water system operating in accordance with a local water supply plan that meets the requirements of G.S. 143-355(l).

Requirements for Wastewater Planning: The Commission has adopted similar rules related to wastewater treatment planning to ensure that treatment facilities do not exceed their hydraulic treatment capabilities. 15A NCAC 02T .0118, sometimes referred to as the "80-90 Rule" details what actions must be taken when treatment plants reach average flows of 80 percent or 90 percent of their permitted capacity. Prior to exceeding 80 percent of a wastewater treatment system's permitted hydraulic capacity, the system must submit an engineering evaluation of their future wastewater treatment, utilization, and disposal needs, as well as a specific plan for meeting the future needs by either expansion of the existing system, elimination or reduction of extraneous flows, or water conservation. In addition, the evaluation must include the proposed source of funding for the improvements. Prior to exceeding 90 percent of a system's permitted hydraulic capacity, the system must obtain all permits needed for the expansion of the wastewater treatment system and, if construction is needed, submit approvable final plans and specifications for expansion, including a construction schedule.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Underhill, Harrison, and Tarleton (Vice-Chairs) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒Committee Substitute for

HB 1747 A BILL TO BE ENTITLED AN ACT TO REQUIRE A LOCAL GOVERNMENT THAT PROVIDES PUBLIC WATER SERVICE OR A COMMUNITY WATER SYSTEM TO REVISE ITS LOCAL WATER SUPPLY PLAN TO ADDRESS FORESEEABLE FUTURE WATER NEEDS WHEN EIGHTY PERCENT OF THE WATER SYSTEM'S AVAILABLE WATER SUPPLY HAS BEEN ALLOCATED OR WHEN SEASONAL DEMAND EXCEEDS NINETY PERCENT, AS RECOMMENDED BY THE LEGISLATIVE STUDY COMMISSION ON WATER AND WASTEWATER INFRASTRUCTURE.

☒ With a favorable report.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Underhill, Harrison, and Tarleton (Vice-Chairs) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒Committee Substitute for
SB 887 A BILL TO BE ENTITLED AN ACT TO MAKE FURTHER SUBSTANTIVE, CLARIFYING, TECHNICAL, AND CONFORMING AMENDMENTS TO THE LAWS GOVERNING THE MANAGEMENT OF DISCARDED COMPUTER EQUIPMENT AND DISCARDED TELEVISIONS.

☒ With a favorable report as to House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill and recommendation that the House committee substitute bill be re-referred to the Committee on COMMERCE, SMALL BUSINESS, AND ENTREPRENEURSHIP.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 887

AMENDMENT NO. 2
(to be filled in by Principal Clerk)

S887-ARI-42 [v.1]

Comm. Sub. [YES]
Amends Title [NO]
S887-CSRIxf-60[v.18]

Date June 15, 2010

Representative K. Alexander

moves to amend the bill on page 3, lines 3 through 5,
by rewriting those lines to read:

"(4) Consumer. – Any of the following:
a. An occupant of a single detached dwelling unit or a single unit contained within a multiple dwelling unit who used a covered device primarily for personal or home business use.
b. A non-profit organization with fewer than ten (10) employees that used a covered device in its operations."; and

on page 7, line 43,
by rewriting that line to read:

"equipment is delivered for recycling.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 887
Commerce Committee Substitute Adopted 5/12/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S887-PCS35468-RIxf-60

Short Title: Amend Electronics Recycling Law. (Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO: (1) MODIFY THE COMPUTER EQUIPMENT RECYCLING PLAN REQUIREMENTS AND ASSOCIATED FEE IMPOSED ON MANUFACTURERS; AND (2) MAKE FURTHER SUBSTANTIVE, CLARIFYING, TECHNICAL, AND CONFORMING AMENDMENTS TO THE LAWS GOVERNING THE MANAGEMENT OF DISCARDED COMPUTER EQUIPMENT AND DISCARDED TELEVISIONS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Sections 16.1 through 16.6 of S.L. 2007-550 are repealed.

SECTION 1.(b) S.L. 2008-208 is repealed.

SECTION 1.(c) Section 16 of S.L. 2009-484 is repealed.

SECTION 1.(d) Subsections (a) and (b) of Section 10 of S.L. 2009-550 are repealed.

SECTION 1.(e) This section becomes effective July 1, 2010.

SECTION 2.(a) Article 9 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 2H. Discarded Computer Equipment and Television Management.

"**§ 130A-309.130. Findings.**

The General Assembly makes the following findings:

(1) The computer equipment and television waste stream is growing rapidly in volume and complexity and can introduce toxic materials into solid waste landfills.

(2) It is in the best interests of the citizens of this State to have convenient, simple, and free access to recycling services for discarded computer equipment and televisions.

(3) Collection programs operated by manufacturers and local government and nonprofit agencies are an efficient way to divert discarded computer equipment and televisions from disposal and to provide recycling services to all citizens of this State.

(4) The development of local and nonprofit collection programs is hindered by the high costs of recycling and transporting discarded computer equipment and televisions.

(5) No comprehensive system currently exists, either provided by electronics manufacturers, retailers, or others, to adequately serve all citizens of the State and to divert large quantities of discarded computer equipment and televisions from disposal.

(6) Manufacturer responsibility is an effective way to ensure that manufacturers of computer equipment and televisions take part in a solution to the electronic waste problem.

(7) The recycling of certain discarded computer equipment and televisions recovers valuable materials for reuse and will create jobs and expand the tax base of the State.

(8) While some computers and computer monitors can be refurbished and reused and other consumer electronics products contain valuable materials, some older and bulkier consumer electronic products, including some televisions, may not contain any valuable products but should nevertheless be recycled to prevent the release of toxic substances to the environment.

(9) For the products covered by this Part, differences in product life expectancy, market economics, residual value, and product portability necessitate different approaches to recycling.

(10) In order to ensure that end-of-life computer equipment and televisions are responsibly recycled, to promote conservation, and to protect public health and the environment, a comprehensive and convenient system for recycling and reuse of certain electronic equipment should be established on the basis of shared responsibility among manufacturers, retailers, consumers, and the State.

"**§ 130A-309.131. Definitions.**

As used in this Part, the following definitions apply:

(1) Business entity. – Defined in G.S. 55-1-40(2a).

(2) Computer equipment. – Any desktop computer, notebook computer, monitor or video display unit for a computer system, and the keyboard, mice, other peripheral equipment, and a printing device such as a printer, a scanner, a combination print-scanner-fax machine, or other device designed to produce hard paper copies from a computer. Computer equipment does not include an automated typewriter, professional workstation, server, ICI device, ICI system, mobile telephone, portable handheld calculator, portable digital assistant (PDA), MP3 player, or other similar device; an automobile; a television; a household appliance; a large piece of commercial or industrial equipment, such as commercial medical equipment, that contains a cathode ray tube, a cathode ray tube device, a flat panel display, or similar video display device that is contained within, and is not separate from, the larger piece of equipment, or other medical devices as that term is defined under the federal Food, Drug, and Cosmetic Act.

(3) Computer equipment manufacturer. – A person that manufactures or has manufactured computer equipment sold under its own brand or label; sells or has sold under its own brand or label computer equipment produced by other suppliers; imports or has imported into the United States computer equipment that was manufactured outside of the United States; or owns or has owned a brand that it licenses or has licensed to another person for use on computer equipment. Computer equipment manufacturer includes a business entity that acquires another business entity that manufactures or has manufactured computer equipment. Computer equipment manufacturer does

not include any existing person that does not and has not manufactured computer equipment of the type that would be used by consumers.

(4) Consumer. – Any of the following:

a. An occupant of a single detached dwelling unit or a single unit contained within a multiple dwelling unit who used a covered device primarily for personal or home business use.

b. A nonprofit organization with fewer than 10 employees that used a covered device in its operations.

(5) Covered device. – Computer equipment and televisions used by consumers primarily for personal or home business use. The term does not include a device that is:

a. Part of a motor vehicle or any component of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle.

b. (i) Physically a part of or integrated within a larger piece of equipment designed and intended for use in an industrial, governmental, commercial, research and development, or medical setting; (ii) equipment used for diagnostic, monitoring, or other medical products as that term is defined under the federal Food, Drug, and Cosmetic Act; (iii) equipment used for security, sensing, monitoring, antiterrorism purposes, or emergency services purposes.

c. Contained within a household appliance, including, but not limited to, a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, air purifier, or exercise equipment.

(6) Desktop computer. – An electronic, magnetic, optical, electrochemical, or other high-speed data processing device that has all of the following features:

a. Performs logical, arithmetic, and storage functions for general purpose needs that are met through interaction with a number of software programs contained in the computer.

b. Is not designed to exclusively perform a specific type of limited or specialized application.

c. Achieves human interface through a stand-alone keyboard, stand-alone monitor or other display unit, and a stand-alone mouse or other pointing device.

d. Is designed for a single user.

e. Has a main unit that is intended to be persistently located in a single location, often on a desk or on the floor.

(7) Discarded computer equipment. – Computer equipment that is solid waste generated by a consumer.

(8) Discarded computer equipment or television collector. – A municipal or county government, nonprofit agency, recycler, or retailer that knowingly accepts for recycling discarded computer equipment or a television from a consumer.

(9) Discarded television. – A television that is solid waste generated by a consumer.

(10) Market share. – A television manufacturer's obligation to recycle discarded televisions. A television manufacturer's market share is the television manufacturer's prior year's sales of televisions as calculated by the

Department pursuant to G.S. 130A-309.138(4) divided by all manufacturers' prior year's sales for all televisions as calculated by the Department pursuant to G.S. 130A-309.138(4). Market share may be expressed as a percentage, a fraction, or a decimal fraction.

(11) Notebook computer. – An electronic, magnetic, optical, electrochemical, or other high-speed data processing device that has all of the following features:

a. Performs logical, arithmetic, or storage functions for general purpose needs that are met through interaction with a number of software programs contained in the computer.

b. Is not designed to exclusively perform a specific type of limited or specialized application.

c. Achieves human interface through a keyboard, video display greater than four inches in size, and mouse or other pointing device, all of which are contained within the construction of the unit that comprises the computer.

d. Is able to be carried as one unit by an individual.

e. Is able to use external, internal, or batteries for a power source.

Notebook computer includes those that have a supplemental stand-alone interface device attached to the notebook computer. Notebook computer does not include a portable handheld calculator, a PDA, or similar specialized device. A notebook computer may also be referred to as a laptop computer.

(12) Recover. – The process of reusing or recycling covered devices.

(13) Recycle. – The processing, including disassembling, dismantling, and shredding, of covered devices or their components to recover a usable product. Recycle does not include any process that results in the incineration of a covered device.

(14) Recycler. – A person that recycles covered devices.

(15) Retailer. – A person that sells computer equipment or televisions in the State to a consumer. Retailer includes a computer equipment manufacturer or a television manufacturer that sells directly to a consumer through any means, including transactions conducted through sales outlets, catalogs, the Internet, or any similar electronic means, but does not include a person that sells computer equipment or televisions to a distributor or retailer through a wholesale transaction.

(16) Television. – Any electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying of television or video programming via broadcast, cable, or satellite, including, without limitation, any direct view or projection television with a viewable screen of nine inches or larger whose display technology is based on cathode ray tube (CRT), plasma, liquid crystal display (LCD), digital light processing (DLP), liquid crystal on silicon (LCOS), silicon crystal reflective display (SXRD), light emitting diode (LED), or similar technology marketed and intended for use by a consumer primarily for personal purposes. The term does not include computer equipment.

(17) Television manufacturer. – A person that: (i) manufactures for sale in this State a television under a brand that it licenses or owns; (ii) manufactures for sale in this State a television without affixing a brand; (iii) resells into this State a television under a brand it owns or licenses produced by other suppliers, including retail establishments that sell a television under a brand

that the retailer owns or licenses; (iv) imports into the United States or exports from the United States a television for sale in this State; (v) sells at retail a television acquired from an importer that is the manufacturer as described in sub-subdivision (iv) of this subdivision, and the retailer elects to register in lieu of the importer as the manufacturer of those products; (vi) manufactures a television for or supplies a television to any person within a distribution network that includes wholesalers or retailers in this State and that benefits from the sale in this State of the television through the distribution network; or (vii) assumes the responsibilities and obligations of a television manufacturer under this Part. In the event the television manufacturer is one that manufactures, sells, or resells under a brand it licenses, the licensor or brand owner of the brand shall not be considered to be a television manufacturer under (i) or (iii) of this subdivision.

"**§ 130A-309.132. Responsibility for recycling discarded computer equipment and televisions.**

In addition to the specific requirements of this Part, discarded computer equipment and television collectors and computer equipment manufacturers and television manufacturers share responsibility for the recycling of discarded computer equipment and televisions and the education of citizens of the State as to recycling opportunities for discarded computer equipment and televisions.

"**§ 130A-309.133. Data security.**

Computer equipment manufacturers, television manufacturers, discarded computer equipment and television collectors, recyclers, and retailers shall not be liable in any way for data or other information left on a covered device that is collected or recovered pursuant to the provisions of this Part.

"**§ 130A-309.134. Requirements for computer equipment manufacturers.**

(a) Registration Required. – Each computer equipment manufacturer, before selling or offering for sale computer equipment in North Carolina, shall register with the Department.

(b) Manufacturer Label Required. – A computer equipment manufacturer shall not sell or offer to sell computer equipment in this State unless a visible, permanent label clearly identifying the manufacturer of that equipment is affixed to the equipment.

(c) Computer Equipment Recycling Plan Required. – Each computer equipment manufacturer shall develop, submit to the Department, and implement one of the following plans to provide a free and reasonably convenient recycling program to take responsibility for computer equipment discarded by consumers:

(1) Level I Recycling Plan. – A computer equipment manufacturer shall submit a recycling plan for reuse or recycling of computer equipment discarded by consumers in the State produced by the manufacturer. The manufacturer shall submit a proposed plan to the Department within 90 days of registration as required by subsection (a) of this section. The plan shall:

a. Provide that the manufacturer will take responsibility for computer equipment discarded by consumers that it manufactured.

b. Describe any direct take-back program to be implemented by the manufacturer. Collection methods that are deemed to meet the requirements of this subdivision include one or more of the following:

1. A process offered by the computer equipment manufacturer or the manufacturer's designee for consumers to return discarded computer equipment by mail.

2. A physical collection site operated and maintained by the computer equipment manufacturer or the manufacturer's

designee to receive discarded computer equipment from consumers, which is available to consumers during normal business hours.

3. A collection event hosted by the computer equipment manufacturer or the manufacturer's designee at which a consumer may return computer equipment.

c. Include a detailed description as to how the manufacturer will implement the plan.

d. Provide for environmentally sound management practices to transport and recycle discarded computer equipment.

e. Include a consumer recycling education program on the laws governing the recycling and reuse of discarded computer equipment under this Part and on the methods available to consumers to comply with those requirements. The manufacturer shall operate a toll-free telephone number to answer questions from consumers about computer recycling options.

(2) Level II Recycling Plan. – A computer equipment manufacturer shall submit a recycling plan for reuse or recycling of computer equipment discarded by consumers in the State produced by the manufacturer and by other manufacturers. The manufacturer shall submit a proposed plan to the Department within 90 days of registration as required by subsection (a) of this section. The plan may offer additional options to collect other types of electronic equipment that do not constitute discarded computer equipment, as that term is defined under G.S. 130A-309.131, and may allow for assessment of a nominal fee for collection of these other types of electronic equipment that are not discarded computer equipment. The plan shall include all of the elements set forth in subdivision (1) of subsection (c) of this section. In addition the plan shall:

a. Provide that the manufacturer will take responsibility for computer equipment discarded by consumers that was manufactured by other manufacturers, as well as computer equipment that it manufactured.

b. Provide that the manufacturer shall: (i) maintain physical collection sites to receive discarded computer equipment from consumers in the 10 most populated municipalities in the State. The physical collection sites shall be available to consumers during normal business hours, at a minimum; and (ii) host at least two collection events annually within the State.

(3) Level III Recycling Plan. – A computer equipment manufacturer shall submit a recycling plan for reuse or recycling of computer equipment discarded by consumers in the State produced by the manufacturer and by other manufacturers. The manufacturer shall submit a proposed plan to the Department within 90 days of registration as required by subsection (a) of this section. The plan may offer additional options to collect other types of electronic equipment that do not constitute discarded computer equipment, as that term is defined under G.S. 130A-309.131, and may allow for assessment of a nominal fee for collection of these other types of electronic equipment that are not discarded computer equipment. The plan shall include all of the elements set forth in subdivision (1) of subsection (c) of this section. In addition the plan shall:

a. Provide that the manufacturer will take responsibility for computer equipment discarded by consumers that was manufactured by other manufacturers, as well as computer equipment that it manufactured.

b. Provide that the manufacturer shall: (i) maintain physical collection sites to receive discarded computer equipment from consumers in 50 of the State's counties, of which 10 of those counties shall be the most populated counties in the State. The physical collection sites shall be available to consumers during normal business hours, at a minimum; and (ii) host at least two collection events annually within the State.

(d) Fee Required. – Within 90 days of registration as required in subsection (a) of this section, a computer equipment manufacturer shall pay an initial registration fee to the Department. A computer equipment manufacturer that has registered shall pay an annual renewal registration fee to the Department, which shall be paid each year no later than July 1. The proceeds of these fees shall be credited to the Electronics Management Account established pursuant to G.S. 130A-309.137. A manufacturer of computer equipment that sells 1,000 items of computer equipment or fewer per year is exempt from the requirement to pay the registration fee and the annual renewal fee imposed by this subsection. The amount of the fee a computer equipment manufacturer shall pay shall be determined on the basis of the plan the manufacturer develops, submits, and implements pursuant to subsection (c) of this section, as follows:

(1) A computer equipment manufacturer who develops, submits, and implements a Level I recycling plan pursuant to subdivision (1) of subsection (c) of this section shall pay an initial registration fee of fifteen thousand dollars ($15,000) and an annual renewal fee of fifteen thousand dollars ($15,000) to the Department.

(2) A computer equipment manufacturer who develops, submits, and implements a Level II recycling plan pursuant to subdivision (2) of subsection (c) of this section shall pay an initial registration fee of ten thousand dollars ($10,000) and an annual renewal fee of seven thousand five hundred dollars ($7,500) to the Department.

(3) A computer equipment manufacturer who develops, submits, and implements a Level III recycling plan pursuant to subdivision (3) of subsection (c) of this section shall pay an initial registration fee of ten thousand dollars ($10,000) and an annual renewal fee of two thousand five hundred dollars ($2,500) to the Department.

(e) Computer Equipment Recycling Plan Revision. – A computer equipment manufacturer may prepare a revised plan and submit it to the Department at any time as the manufacturer considers appropriate in response to changed circumstances or needs. The Department may require a manufacturer to revise or update a plan if the Department finds that the plan is inadequate or out-of-date.

(f) Payment of Costs for Plan Implementation. – Each computer equipment manufacturer is responsible for all costs associated with the development and implementation of its plan. A computer equipment manufacturer shall not collect a fee from a consumer or a local government for the management of discarded computer equipment at the time the equipment is delivered for recycling.

(g) Joint Computer Equipment Recycling Plans. – A computer equipment manufacturer may fulfill the requirements of subsection (c) of this section by participation in a joint recycling plan with other manufacturers. A joint plan shall meet the requirements of subsection (c) of this section.

(h) Annual Report. – Each computer equipment manufacturer shall submit a report to the Department by October 1 of each year stating the total weight of all computer equipment collected for recycling or reuse in the previous fiscal year. The report shall also include a summary of actions taken to comply with the requirements of subsection (c) of this section.

"**§ 130A-309.135. Requirements for television manufacturers.**

(a) Registration and Fee Required. – Each television manufacturer, before selling or offering for sale televisions in the State, shall register with the Department and, at the time of registration, shall pay an initial registration fee of two thousand five hundred dollars ($2,500) to the Department. An initial registration shall be valid from the day of registration through the last day of the fiscal year in which the registration fee was paid. A television manufacturer that has registered shall pay an annual renewal registration fee of two thousand five hundred dollars ($2,500) to the Department. The annual renewal registration fee shall be paid to the Department each fiscal year no later than June 30 of the previous fiscal year. The proceeds of these fees shall be credited to the Electronics Management Account. A television manufacturer that sells 1,000 televisions or fewer per year is exempt from the requirement to pay the registration fee and the annual renewal fee imposed by this subsection.

(b) Manufacturer Label Required. – A television manufacturer shall not sell or offer to sell any television in this State unless a visible, permanent label clearly identifying the manufacturer of that device is affixed to the equipment.

(c) Recycling of Market Share Required. – The obligation to recycle televisions shall be allocated to each television manufacturer based on the television manufacturer's market share. A television manufacturer must annually recycle or arrange for the recycling of its market share of televisions pursuant to this section.

(d) Due Diligence and Compliance Assessments. – A television manufacturer shall conduct and document due diligence assessments of the recyclers the manufacturer contracts with, including an assessment of compliance with environmentally sound recovery standards adopted by the Department.

(e) Contact Information Required. – A television manufacturer shall provide the Department with contact information for the manufacturer's designated agent or employee whom the Department may contact for information related to the manufacturer's compliance with the requirements of this section.

(f) Joint Television Recycling Plans. – A television manufacturer may fulfill the requirements of this section either individually or in participation with other television manufacturers.

(g) Annual Report. – A television manufacturer shall report to the Department by October 1 of each year the total weight of televisions the manufacturer collected and recycled in the State during the previous fiscal year.

"**§ 130A-309.136. Requirements applicable to retailers.**

(a) A manufacturer must not sell or offer for sale or deliver to retailers for subsequent sale new computer equipment or televisions unless: (i) the covered device is labeled with the manufacturer's brand, which label is permanently affixed and readily visible; and (ii) the manufacturer has filed a registration with the Department and is otherwise in compliance with the requirements of this Part, as indicated on the list developed and maintained by the Department pursuant to G.S. 130A-309.138(1).

(b) A retailer is not responsible for an unlawful sale under this section if the manufacturer's registration expired or was revoked and the retailer took possession of the covered device prior to the expiration or revocation of the manufacturer's registration and the unlawful sale occurred within six months after the expiration or revocation.

"**§ 130A-309.137. Electronics Management Account.**

(a) Creation. – The Electronics Management Account is created as a nonreverting account within the Department. The Account consists of revenue credited to the Account from

the proceeds of the fee imposed on computer equipment manufacturers under G.S. 130A-309.134 and television manufacturers under G.S. 130A-309.135.

(b) Use and Distribution. – Funds in the Account shall be used by the Department to implement the provisions of this Part concerning discarded computer equipment and televisions. The Department may use all of the proceeds of the fee imposed on television manufacturers pursuant to G.S. 130A-309.135 and may use up to ten percent (10%) of the proceeds of the fee imposed on computer equipment manufacturers under G.S. 130A-309.134 for administration of the requirements of this Part. Funds remaining shall be distributed annually by the Department to eligible local governments pursuant to this section. The Department shall distribute such funds on or before February 15 of each year. Funds shall be distributed on a pro rata basis.

(c) Eligibility. – Except as provided in subsection (d) of this section, no more than one unit of local government per county, including the county itself, may receive funding pursuant to this section for a program to manage discarded computer equipment, televisions, and other electronic devices. In order to be eligible for funding, a unit of local of government shall:

(1) Submit a comprehensive solid waste management plan required pursuant to G.S. 130A-309.09A, amended as necessary to include the following information:

a. Information on existing programs within the jurisdiction to recycle or reuse discarded computer equipment, televisions, and other electronic devices, or information on a plan to begin such a program on a date certain. This information shall include a description of the implemented or planned practices for collection of the equipment; and a description of the types of equipment to be collected and how the equipment will be marketed for recycling.

b. Information on a public awareness and education program concerning the recycling and reuse of discarded computer equipment, televisions, and other electronic devices.

c. Information on methods to track and report total tonnage of computer equipment, televisions, and other electronic devices collected and recycled in the jurisdiction.

d. Information on interactions with other units of local government to provide or receive services concerning disposal of discarded computer equipment, televisions, and other electronic devices.

e. Information on how the unit of local government will account for the expenditure of funds received pursuant to this section.

(2) Establish a separate local budget account for the receipt and expenditure of funds received pursuant to this section.

(3) Contract with a recycler that is certified as adhering to Responsible Recycling ('R2') practices or that is certified as an e-Steward recycler adhering to the e-Stewards Standard for Responsible Recycling and Reuse of Electronic Equipment® to process the discarded computer equipment, televisions, and other electronic devices that the unit of local government collects.

(d) Local Government Designation. – If more than one unit of local government in a county, including the county itself, requests funding pursuant to this section, the units of local government in question may: (i) enter into interlocal agreements for provision of services concerning disposal of discarded computer equipment and televisions, and distribution of funds received pursuant to this section among the parties to the agreement; or (ii) submit separate and distinct comprehensive solid waste management plans pursuant to G.S. 130A-309.09A, with the information set forth in sub-subdivisions a. through e. of subdivision (1) of subsection (c) of

this section. In the case of (ii), the Department shall distribute funds to the local governments determined to be eligible based on the percentage of the county's population to be served under each eligible local government's program.

(e) Report. – Information regarding permanent recycling programs for discarded computer equipment and televisions for which funds are received pursuant to this section, and information on operative interlocal agreements executed in conjunction with funds received, if any, shall be included in the annual report required under G.S. 130A-309.09A.

"**§ 130A-309.138. Responsibilities of the Department.**

In addition to its other responsibilities under this Part, the Department shall:

(1) Develop and maintain a current list of manufacturers that are in compliance with the requirements of G.S. 130A-309.134 and G.S. 130A-309.135, post the list to the Department's Web site, and provide the current list to the Office of Information Technology Services each time that the list is updated.

(2) Develop and implement a public education program on the laws governing the recycling and reuse of discarded computer equipment and televisions under this Part and on the methods available to consumers to comply with those requirements. The Department shall make this information available on the Internet and shall provide technical assistance to manufacturers to meet the requirements of G.S. 130A-309.134(c)(1)(e.). The Department shall also provide technical assistance to units of local government on the establishment and operation of discarded computer equipment and television collection centers and in the development and implementation of local public education programs.

(3) Maintain the confidentiality of any information that is required to be submitted by a manufacturer under this Part that is designated as a trade secret, as defined in G.S. 66-152(3) and that is designated as confidential or as a trade secret under G.S. 132-1.2.

(4) The Department shall use national televisions sales data available from commercially available analytical sources to calculate the generation of discarded televisions and to determine each television manufacturer's recovery responsibilities for televisions based on the manufacturer's market share. The Department shall extrapolate data for the State from national data on the basis of the State's share of the national population.

"**§ 130A-309.139. Enforcement.**

This Part may be enforced as provided by Part 2 of Article 1 of this Chapter.

"**§ 130A-309.140. Annual report.**

No later than January 15 of each year, the Department shall submit a report on the recycling of discarded computer equipment and televisions in the State under this Part to the Environmental Review Commission. The report must include an evaluation of the recycling rates in the State for discarded computer equipment and televisions, a discussion of compliance and enforcement related to the requirements of this Part, and any recommendations for any changes to the system of collection and recycling of discarded computer equipment, televisions, or other electronic devices.

"**§ 130A-309.141. Local government authority not preempted.**

Nothing in this Part shall be construed as limiting the authority of any local government to manage computer equipment and televisions that are solid waste."

SECTION 2.(b) This section becomes effective August 1, 2010, except that: (i) the first annual report due under G.S. 130A-309.134(h) is due October 1, 2011; (ii) G.S. 130A-309.136 becomes effective July 1, 2011; (iii) changes required to comprehensive solid waste management plans in accordance with G.S. 130A-309.137 shall be submitted to the

Department of Environment and Natural Resources on or before December 31, 2010; and (iv) G.S. 130A-309.137(c)(3) becomes effective January 1, 2013.

SECTION 3.(a) G.S. 130A-309.09A(b)(6) is amended by adding a new sub-subdivision to read:

"(6) Include an assessment of current programs and a description of intended actions with respect to:

...

e. For each county and each municipality with a population in excess of 25,000, collection of discarded computer equipment and televisions, as defined in G.S. 130A-309.131."

SECTION 3.(b) G.S. 130A-309.09A(d) is amended by adding a new subdivision to read:

"(d) In order to assess the progress in meeting the goal set out in G.S. 130A-309.04, each unit of local government shall report to the Department on the solid waste management programs and waste reduction activities within the unit of local government by 1 September of each year. At a minimum, the report shall include:

...

(8) Information regarding permanent recycling programs for discarded computer equipment and televisions for which funds are received pursuant to G.S. 130A-309.137, and information on operative interlocal agreements executed in conjunction with funds received, if any."

SECTION 3.(c) This section becomes effective August 1, 2010.

SECTION 4.(a) G.S. 130A-309.10(f) is amended by adding two new subdivisions to read:

"(f) No person shall knowingly dispose of the following solid wastes in landfills:

(1) Repealed by Session Laws 1991, c. 375, s. 1.

(2) Used oil.

(3) Yard trash, except in landfills approved for the disposal of yard trash under rules adopted by the Commission. Yard trash that is source separated from solid waste may be accepted at a solid waste disposal area where the area provides and maintains separate yard trash composting facilities.

(4) White goods.

(5) Antifreeze (ethylene glycol).

(6) Aluminum cans.

(7) Whole scrap tires, as provided in G.S. 130A-309.58(b). The prohibition on disposal of whole scrap tires in landfills applies to all whole pneumatic rubber coverings, but does not apply to whole solid rubber coverings.

(8) Lead-acid batteries, as provided in G.S. 130A-309.70.

(9) Beverage containers that are required to be recycled under G.S. 18B-1006.1.

(10) Motor vehicle oil filters.

(11) Recyclable rigid plastic containers that are required to be labeled as provided in subsection (e) of this section, that have a neck smaller than the body of the container, and that accept a screw top, snap cap, or other closure. The prohibition on disposal of recyclable rigid plastic containers in landfills does not apply to rigid plastic containers that are intended for use in the sale or distribution of motor oil or pesticides.

(12) Wooden pallets, except that wooden pallets may be disposed of in a landfill that is permitted to only accept construction and demolition debris.

(13) Oyster shells.

(14) Discarded computer equipment, as defined in G.S. 130A-309.131.

(15) Discarded televisions, as defined in G.S. 130A-309.131."

SECTION 4.(b) G.S. 130A-309.10(f1) is amended by adding two new subdivisions to read:

"(f1) No person shall knowingly dispose of the following solid wastes by incineration in an incinerator for which a permit is required under this Article:

(1) Antifreeze (ethylene glycol) used solely in motor vehicles.
(2) Aluminum cans.
(3) Repealed by Session Laws 1995 (Regular Session, 1996), c. 594, s. 17.
(4) White goods.
(5) Lead-acid batteries, as provided in G.S. 130A-309.70.
(6) Beverage containers that are required to be recycled under G.S. 18B-1006.1.
(7) Discarded computer equipment, as defined in G.S. 130A-309.131.
(8) Discarded televisions, as defined in G.S. 130A-309.131."

SECTION 4.(c) This section becomes effective July 1, 2011.

SECTION 5.(a) Part 4 of Article 3D of Chapter 147 of the General Statutes is amended by adding a new section to read:

"**§ 147-33.104A. Purchase by State agencies and governmental entities of certain computer equipment and televisions prohibited.**

(a) The exemptions set out in G.S. 147-33.80 do not apply to this section.

(b) No State agency, political subdivision of the State, or other public body shall purchase computer equipment or televisions, as defined in G.S. 130A-309.131, or enter into a contract with any manufacturer that the Secretary determines is not in compliance with the requirements of G.S. 130A-309.134 or G.S. 130A-309.135 as determined from the list provided by the Department of Environment and Natural Resources pursuant to G.S. 130A-309.138. The Secretary shall issue written findings upon a determination of noncompliance. A determination of noncompliance by the Secretary is reviewable under Article 3 of Chapter 150B of the General Statutes.

(c) The Office of Information Technology Services shall make the list available to political subdivisions of the State and other public bodies. A manufacturer that is not in compliance with the requirements of G.S. 130A-309.134 or G.S. 130A-309.135 shall not sell or offer for sale computer equipment or televisions to the State, a political subdivision of the State, or other public body."

SECTION 5.(b) This section becomes effective August 1, 2010.

SECTION 6. The Environmental Review Commission, with the assistance of the Department of Environment and Natural Resources, shall conduct a study to determine the feasibility of requiring recycling of: (i) computer equipment discarded by small businesses; and (ii) other electronic equipment, including, but not limited to: automated typewriters, professional workstations, servers, ICI devices, ICI systems, mobile telephones, portable handheld calculators, PDAs, MP3 players, copy machines, VCRs, stereos, radios, tape players, CD players, telephones, fax machines, electronic games, power and network cables, network hubs, switching boxes, controllers, modems, docking stations, CD-ROMs, hard drives, printed circuit boards, uninterruptible power supplies, routers, and rechargeable batteries. The Environmental Review Commission, with the assistance of the Department of Environment and Natural Resources, shall also study the fee structure for computer manufacturers imposed under this act. The Environmental Review Commission shall report its findings and recommendations, including any legislative proposals, to the 2011 Regular Session of the General Assembly upon its convening.

SECTION 7. The Environmental Review Commission, with the assistance of the Department of Environment and Natural Resources, shall monitor and review electronic recycling programs in other states on an ongoing basis and shall report its findings and recommendations to the General Assembly periodically.

SECTION 8. Notwithstanding the provisions of G.S. 130A-309.136, as enacted by Section 2 of this act, during the first year after the effective date of this act, the Department shall not initiate an enforcement action against a retailer for a first violation of G.S. 130A-309.136. The Department shall, however, issue a notice of violation to the retailer in conjunction with the first violation.

SECTION 9. Sections 6, 7, 8, and 9 of this act are effective when they become law.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative Underhill, Harrison, and Tarleton (Vice-Chairs) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒Committee Substitute for

SB 887 A BILL TO BE ENTITLED AN ACT TO MAKE FURTHER SUBSTANTIVE, CLARIFYING, TECHNICAL, AND CONFORMING AMENDMENTS TO THE LAWS GOVERNING THE MANAGEMENT OF DISCARDED COMPUTER EQUIPMENT AND DISCARDED TELEVISIONS.

☒ With a favorable report as to House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill and recommendation that the House committee substitute bill be re-referred to the Committee on COMMERCE, SMALL BUSINESS, AND ENTREPRENEURSHIP.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

HOUSE BILL 1870

Short Title:	Safe Artificial Slope Construction Act.	(Public)
Sponsors:	Representatives Goforth, Whilden (Primary Sponsors); Hughes and Insko.	
Referred to:	Environment and Natural Resources, if favorable, Finance, if favorable, Appropriations.	

May 20, 2010

A BILL TO BE ENTITLED

AN ACT TO (1) REQUIRE LOCAL GOVERNMENTS TO ADOPT ORDINANCES TO REGULATE SITE PLANNING, DESIGN, AND CONSTRUCTION OF ARTIFICIAL SLOPES IN MOUNTAINOUS AREAS TO PROMOTE SAFE AND STABLE SLOPES FOR DEVELOPMENT, TO REDUCE THE LIKELIHOOD OF SLOPE FAILURES ON DEVELOPED OR DISTURBED LAND, AND TO PROTECT HUMAN SAFETY AND PROPERTY; AND (2) DIRECT THE SEDIMENTATION CONTROL COMMISSION TO ASSIST LOCAL GOVERNMENTS IN DEVELOPMENT AND IMPLEMENTATION OF SAFE SLOPE CONSTRUCTION PROGRAMS AND TO DEVELOP A MODEL ORDINANCE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 113A of the General Statutes is amended by adding a new Article to read as follows:

"Article 19.

"Safe Artificial Slope Construction.

"**§ 113A-261. Short title.**

This act shall be known as the Safe Artificial Slope Construction Act of 2010.

"**§ 113A-262. Definitions.**

The definitions set forth in G.S. 113A-52 apply to this Article. In addition, the following definitions apply to this Article:

(1) 'Affected area' means an area located on a mountain face or steep hillside that (i) has an average slope of forty percent (40%) or greater, or (ii) is designated with a slide hazard ranking of 'moderate' or 'high' on a Stability Index Map prepared by the North Carolina Geological Survey.

(2) 'Artificial slope construction' means any slope-disturbing activity that creates or changes any slope, or attempts to do so.

(3) 'Construction' means any slope-disturbing activity and includes reconstruction, repair, stabilization, alteration, or expansion.

(4) 'Slope-disturbing activity' means any use of the land by any person in residential, industrial, educational, institutional, or commercial development, and highway and road construction and maintenance that results in removal of ground cover or a change in topography of the land.

(5) 'Slope' means an inclined ground or earth material surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

"**§ 113A-263. Legislative findings.**

Improper development on steep slopes poses a threat to human safety and property. Economic pressures, unknown site conditions, inadequate or inappropriate design, and inexperienced persons conducting slope-disturbing activity can affect the quality, safety, and stability of development on steep slopes. It is the intent of this Article to require implementation of reasonable, effective control standards for artificial slope construction and to improve construction and development practices that will result in higher levels of safety and stability on developed land and to decrease the potential for damage to human health, property, and natural resources.

"**§ 113A-264. Purpose.**

This Article provides for a cooperative program of safe artificial slope construction to be administered by local governments consistent with minimum statewide management requirements established by the Sedimentation Control Commission.

"**§ 113A-265. Applicability of this Article.**

(a) This Article applies to artificial slope construction in any affected area as defined in G.S. 113A-262 that is located within a county designated pursuant to subdivision (1) of Section 3 of S.L. 2005-1.

(b) This Article shall not apply to artificial slope construction activities conducted in connection with the following:

(1) Graves for the burial of human remains.

(2) Local government operation of a landfill.

(3) Excavations for wells or tunnels.

(4) Exploratory excavations not requiring a building permit that are less than one-half acre of disturbed area conducted under the direction of a professional engineer licensed under Chapter 89C of the General Statutes or other professional approved by the agency having jurisdiction.

(5) Natural slope failures, including, but not limited to, landslides.

(6) Underground storage tanks exempt from regulation under the Occupational Safety and Health Act.

(7) Ditches exempt from regulation under the Occupational Safety and Health Act.

(8) Artificial slope construction for below grade portions of a residential or commercial structure for which an unexpired building permit has been issued if the construction complies with all applicable local, State, and federal regulations, including, but not limited to, the North Carolina State Building Code.

(9) Activities set forth in G.S. 113A-52.01.

"**§ 113A-266. Duties of the Sedimentation Control Commission.**

(a) Identification of Affected Areas. – The Commission shall identify the jurisdictions that are required to adopt ordinances pursuant to this Article by showing them on a map or drawing, describing them in a document, or any combination thereof. These maps, drawings, or documents shall identify the affected areas within the jurisdiction. The Commission shall file this information with the governing body of each identified jurisdiction. Determinations by the Commission of affected areas under this section shall be conclusive in the absence of fraud.

(b) Development of Safe Artificial Slope Construction Requirements. – The Commission shall adopt rules for the safe construction of artificial slopes in affected areas, including, but not limited to, minimum requirements for:

(1) Adequate site assessment, planning, design, and technical standards for construction of stable artificial slopes.

(2) Submission, review, approval and disapproval, and modification procedures for safe artificial slope construction plans. Plans involving construction of retaining walls over eight feet in height shall be prepared by a professional

engineer licensed under Chapter 89C of the General Statutes to practice as a professional engineer in the State. All plans shall be approved by the agency having jurisdiction prior to initiation of any artificial slope construction activity in affected areas. Any artificial slope construction in affected areas shall be performed by a general contractor licensed under Article 1 of Chapter 87 of the General Statutes and shall be conducted in compliance with an approved plan.

(3) Demonstrations of financial responsibility.

(4) Submission of reports to document compliance.

(5) Inspection and enforcement procedures, which shall include a requirement that each site on which regulated slope construction activity is being conducted shall be inspected while the work is being performed and after the work is completed to ensure compliance with this Article and that proper measures are implemented to construct a stable artificial slope at the site.

(6) Exemptions applicable to certain activities.

(c) Assistance to Local Governments. – The Commission shall provide assistance to local governments in the development of safe artificial slope construction programs that comply with this Article. As part of its assistance to local governments, the Commission shall approve and make available a model safe artificial slope construction ordinance. The safe artificial slope construction ordinance shall, at a minimum, address the requirements set forth in subsection (b) of this section.

(d) Review and Approval of Local Ordinances Required. – The Commission shall review each ordinance that regulates the construction of artificial slopes in affected areas submitted by a local government pursuant to G.S. 113A-267 and, within 90 calendar days of receipt thereof, shall notify the local government submitting the ordinance that the ordinance has been approved, approved with modifications, or disapproved. The Commission shall approve an ordinance only if it determines that the requirements of the ordinance meet or exceed the requirements of this Article and rules adopted thereunder.

"**§ 113A-267. Mandatory local programs.**

(a) Adoption of Ordinance Required. – Each county that has within its jurisdiction an affected area shall adopt an ordinance that regulates the construction of artificial slopes in affected areas by any person. The ordinance shall apply in unincorporated areas within the county and to incorporated areas within the county except that a city may adopt an ordinance in which case the municipal ordinance shall apply within the city and the extraterritorial jurisdiction of the city. The ordinance shall at least meet and may exceed the minimum requirements of this Article and rules adopted pursuant to this Article.

(b) Review and Approval of Ordinance Required. – Prior to adoption of an ordinance that regulates the construction of artificial slopes in affected areas, or modification of the ordinance, a local government shall submit the ordinance to the Commission for review and receive approval from the Commission for the ordinance.

(c) Public Hearing. – The governing body of a local government must hold a public hearing on the question of adoption of an ordinance that regulates the construction of artificial slopes in affected areas prior to adoption. The public hearing required by this section shall be held upon at least 10 calendar days' notice in a newspaper of general circulation in the jurisdiction adopting the ordinance. Testimony at the hearing shall be recorded, and any and all exhibits shall be preserved within the custody of the governing body of the local government. The testimony and evidence shall be made available for inspection and scrutiny by any person.

(d) Filing of Documents. – Each local government that adopts an ordinance pursuant to the provisions of this Article shall file a copy of the ordinance with the Commission. The local government shall file the information provided by the Commission pursuant to G.S. 113A-266(a) with the register of deeds in the jurisdiction where the affected area is

located. Copies of the maps, drawings, or documents that are certified by the register of deeds shall be admitted in evidence in all courts and shall have the same force and effect as would the original.

(e) Application of Ordinance by Local Governments. – An ordinance adopted pursuant to the provisions of this Article shall apply to all affected areas as defined in G.S. 113A-262 within the jurisdiction. Determinations by a local government of affected areas made pursuant to the provisions of this Article shall be conclusive in the absence of fraud.

(f) Fees. – An ordinance adopted by a local government may establish a fee, not to exceed one hundred dollars ($100.00), for the review of an artificial slope construction plan and related activities.

(g) Implementation and Enforcement. – Each local government that is required to adopt an ordinance pursuant to the provisions of this Article shall implement and enforce the ordinance in accordance with the requirements of this Article and rules adopted thereunder.

(h) Creation or Designation of Agencies to Administer; Joint Programs. – Local governments are authorized to create or designate agencies or subdivisions of local government to administer and enforce the ordinance. Two or more units of local government are authorized to establish a joint program and to enter into any agreements that are necessary for the proper administration and enforcement of a safe artificial slope construction ordinance. The resolutions establishing any joint program must be duly recorded in the minutes of the governing body of each local government participating in the program, and a certified copy of each resolution must be filed with the Commission.

"**§ 113A-268. Enforcement and penalties.**

(a) Civil Penalties. –

(1) The Commission may assess a civil penalty of not more than five thousand dollars ($5,000) per year against any local government that fails to adopt a safe artificial slope construction ordinance as required by this Article or willfully fails to administer or enforce the provisions of its program in substantial compliance with the minimum statewide safe slope construction requirements of this Article.

(2) A local government that administers a safe slope construction program may assess a civil penalty against any person who violates any of the provisions of this Article or any ordinance, rule, or order adopted or issued pursuant to this Article by the Commission or by a local government or who initiates or continues a slope construction activity for which an artificial slope construction plan is required except in accordance with the terms, conditions, and provisions of an approved plan. The maximum civil penalty for a violation is five thousand dollars ($5,000) per year.

a. Prior to assessing a civil penalty against a person pursuant to this section, a local government that administers a safe slope construction program shall immediately serve a notice of violation upon the person. The notice may be served by any means authorized under G.S. 1A-1, Rule 4. A notice of violation shall specify a date by which the person must comply and inform the person of the actions that need to be taken for compliance. Any person who fails to comply within the time specified shall then be subject to civil and criminal penalties for violations as provided in this section.

b. A local government that administers a safe slope construction program shall determine the amount of the civil penalty and shall notify the person who is assessed the civil penalty of the amount of the penalty and the reason for assessing the penalty. The notice of assessment shall be served by any means authorized under

G.S. 1A-1, Rule 4, and shall direct the violator to either pay the assessment or contest the assessment within 30 calendar days by filing a petition for a contested case under Article 3 of Chapter 150B of the General Statutes. If a violator does not pay a civil penalty assessed by a local government within 30 calendar days after it is due, the local government may institute a civil action to recover the amount of the assessment. The civil action may be brought in the superior court of any county where the violation occurred or the violator's residence or principal place of business is located. A civil action must be filed within three years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment.

c. In determining the amount of the penalty, a local government that administers a safe slope construction program shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator saved by noncompliance, whether the violation was committed willfully, and the prior record of the violator in complying or failing to comply with this Article.

(3) Civil penalties collected by a local government under this subsection shall be used as provided in Section 7 of Article IX of the Constitution of North Carolina.

(b) Criminal Penalties. – Any person who knowingly or willfully violates any provision of this Article or any ordinance, rule, regulation, or order duly adopted or issued by the Commission or a local government, or who knowingly or willfully initiates a slope construction activity for which an artificial slope construction plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a Class 2 misdemeanor that may include a fine not to exceed five thousand dollars ($5,000).

(c) Injunctive Relief. –

(1) Whenever the governing body of a local government having jurisdiction has reasonable cause to believe that any person is violating or is threatening to violate any ordinance, rule, regulation, or order adopted or issued by the local government pursuant to this Article, or any term, condition, or provision of an artificial slope construction plan over which it has jurisdiction, may, either before or after the institution of any other action or proceeding authorized by this Article, institute a civil action in the name of the local government for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the superior court of the county in which the violation is occurring or is threatened.

(2) Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under subdivision (1) or (2) of this subsection shall not relieve any party to the proceeding from any civil or criminal penalty prescribed for violations of this Article."

SECTION 2. G.S. 143B-298 reads as rewritten:

"**§ 143B-298. Sedimentation Control Commission – creation; powers and duties.**

(a) There is hereby created the Sedimentation Control Commission of the Department of Environment and Natural Resources with the power and duty to develop and administer a sedimentation control program as herein provided.

(b) The Sedimentation Control Commission has the following powers and duties:

(1) In cooperation with the Secretary of the Department of Transportation and Highway Safety and other appropriate State and federal agencies, develop, promulgate, publicize, and administer a comprehensive State erosion and sedimentation control program.

(2) Develop and adopt on or before July 1, 1974, rules and regulations for the control of erosion and sedimentation pursuant to G.S. 113A-54.

(3) Conduct public hearings pursuant to G.S. 113A-54.

(4) Assist local governments in developing erosion and sedimentation control programs pursuant to G.S. 113A-60.

(5) Assist and encourage other State agencies in developing erosion and sedimentation control programs pursuant to G.S. 113A-56.

(6) Develop recommended methods of control of sedimentation and prepare and make available for distribution publications and other materials dealing with sedimentation control techniques pursuant to G.S. 113A-54.

(7) Adopt rules for the safe construction of artificial slopes in affected areas as provided in G.S. 113A-266(b) and develop a model safe artificial slope construction ordinance as provided in G.S. 113A-266(c).

(8) Assist local governments in developing safe artificial slope construction programs pursuant to G.S. 113A-266."

SECTION 3. There is appropriated from the General Fund to the Department of Environment and Natural Resources the sum of ten thousand dollars ($10,000) for the 2010-2011 fiscal year and the sum of ten thousand dollars ($10,000) for the 2011-2012 fiscal year to implement the provisions of this act.

SECTION 4. Section 1 of this act becomes effective December 1, 2012, except that G.S. 113A-266, as enacted by Section 1 of this act, is effective when this act becomes law. Each local government that is required to adopt a safe artificial slope construction ordinance pursuant to the provisions of G.S. 113A-267, as enacted by Section 1 of this act, shall submit its ordinance to the Sedimentation Control Commission for approval on or before December 1, 2011. Sections 2 and 4 of this act are effective when it becomes law. Section 3 of this act becomes effective July 1, 2010.

HOUSE BILL 1870:
Safe Artificial Slope Construction Act

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Finance, if favorable, Appropriations	**Date:**	June 15, 2010
Introduced by:	Reps. Goforth, Whilden	**Prepared by:**	Jennifer McGinnis Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***House Bill 1870 would: (1) require local governments to adopt ordinances to regulate site planning, design, and construction of artificial slopes in mountainous areas to promote safe and stable slopes for development and to reduce the likelihood of slope failures on developed or disturbed land, in order to protect human safety and property; (2) direct the Sedimentation Control Commission (Commission) to adopt rules for the safe construction of artificial slopes in affected areas, and assist local governments in development and implementation of safe slope construction programs; (3) create penalties for violations of safe artificial slope construction requirements; and (4) appropriate the sum of $10,000 to the Department of Environment and Natural Resources (Department) for both the 2010-2011 and 2011-2012 fiscal years to implement the provisions of the bill.***

CURRENT LAW: The General Statutes do not currently regulate construction of artificial slopes. Several local governments in the western region of the State, however, have enacted or considered enactment of ordinances to govern such construction.

BILL ANALYSIS: The bill would add a new Article, "Safe Artificial Slope Construction", to Chapter 113A of the General Statutes with provisions as follows:

- ***Require certain local governments to adopt an ordinance that regulates construction of artificial slopes***: Each county that has within its jurisdiction an **affected area** would be required to adopt an ordinance that regulates the construction of artificial slopes by December 1, 2012, which at least meets and may exceed the minimum requirements of the Article and rules adopted thereunder. The Article would require that local government programs implement the local ordinance including inspection and enforcement procedures.

  As defined in the Article, "**affected area**" means an area located on a mountain face or steep hillside that (i) has an average slope of forty percent (40%) or greater, or (ii) is designated with a slide hazard ranking of 'moderate' or 'high' on a Stability Index Map prepared by the North Carolina Geological Survey.

- ***Duties of Sedimentation Control Commission under Article***:
  - Identify the jurisdictions that are required to adopt ordinances.
  - Adopt rules for the safe construction of artificial slopes in affected areas including, but not limited to, minimum requirements for:
    (1) Adequate site assessment, planning, design, and technical standards for construction of stable artificial slopes.
    (2) Submission, review, approval and disapproval, and modification procedures for safe artificial slope construction plans. Plans involving construction of retaining walls over eight feet in height must be prepared by a licensed engineer. All plans must be approved by the agency having jurisdiction prior to initiation of any artificial slope construction activity in affected areas. Any artificial slope construction in affected

areas must be performed by a licensed general contractor and must be conducted in compliance with an approved plan.
(3) Demonstrations of financial responsibility.
(4) Submission of reports to document compliance.
(5) Inspection and enforcement procedures.
(6) Exemptions applicable to certain activities.

- Approve and make available a model safe artificial slope construction ordinance.
- Provide assistance to local governments in the development of safe artificial slope construction programs.
- Review each ordinance submitted by local governments, and within 90 calendar days of receipt, notify the local government that the ordinance has been approved, approved with modifications, or disapproved.

➢ ***Enforcement and penalties.***
- Civil Penalties –
  (1) The Commission may assess a civil penalty of not more than $5,000 per year against any local government that fails to adopt a safe artificial slope construction ordinance, or willfully fails to administer or enforce the provisions of its program.
  (2) A local government that administers a safe slope construction program may assess a civil penalty against any person who violates any of the provisions of the Article or any ordinance, rule, or order adopted or issued pursuant to the Article. The maximum civil penalty for a violation is $5,000 per year. A civil penalty may only be assessed after a warning has been issued, and the violator has failed to rectify the violation(s) in the time specified for doing so. In determining the amount of the penalty, the local government must consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator saved by noncompliance, whether the violation was committed willfully, and the prior record of the violator in complying or failing to comply with the Article.
- Criminal Penalties – Any person who knowingly or willfully violates any provision of the Article or any ordinance, rule, regulation, or order duly adopted or issued by the Commission or a local government, or who knowingly or willfully initiates a slope construction activity for which a plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, would be guilty of a Class 2 misdemeanor that may include a fine not to exceed $5,000.
- Injunctive Relief – If a local government has reasonable cause to believe that any person is violating or is threatening to violate any ordinance, rule, regulation, or order adopted or issued by the local government pursuant to the Article, or any term, condition, or provision of a plan over which it has jurisdiction, it may institute a civil action for injunctive relief to restrain the violation or threatened violation.

➢ ***Appropriation***: The sum of $10,000 would be appropriated to the Department for both the 2010-2011 and 2011-2012 fiscal years to implement the provisions of the bill.

EFFECTIVE DATE: The requirements applicable to adoption and implementation of local ordinances and safe slope construction would become effective December 1, 2012. Each local government that would be required to adopt an ordinance would be required to submit its ordinance to the Commission for approval on or before December 1, 2011. The provisions relating to duties of the Commission would become effective when the act became law.

Division
Yea 7
No 8

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1870

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

H1870-ARI-38 [v.2]

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Date June 15, 2010

Representative Gillespie

moves to amend the bill on page 2, line 15, by rewriting that line to read:

"G.S. 113A-262 that is located at an elevation over two thousand (2,000) feet within a county designated pursuant to subdivision (1) of Section".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ✓ TABLED _____

Sheep for 6-17 Mtg.

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

June 15, 2010

SPEAKERS: PLEASE SIGN IN BELOW

Name & Title	Representing (Agency/Company)	Bill #	Support/ Oppose
Margaret Hatzell	Environment North Carolina	1870	
Jack Cozart	Duke Energy	887	
✓ Bruce Thomson	Apple	887	
Drew Ball	NC Sierra Club	887	
Nick Tosca	Cities - League	887	
Kevin Leonard	Counties	887	

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 15, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Christopher Hamard	DENR
Ellen Lorscheider	DENR
Peter Raabe	American Rivers
Carl Mackensen	Sierra Club
Tara Steinmetz	Environment NC
Gabrielle Vires	Environment NC
Judy Francis	NCDENR
Lisa Riegel	NHTF
Janie Hauser	DENR
David Knight	DENR
Kay Emanuel	UNC School of Government

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 15, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Elizabeth Cuts	Environment North Carolina
Hassan Khan	NCCN
Dan Conrad	NCCN
Maria Restko	CTNC
Kimberly Rankin	Sierra Club
Margaret Hostetler	Environment North Carolina
Tracy Davis	DENR - DLR
Francis M. Nevils Jr.	DENR - DLR
James D. Simmons	DENR - DLR
Robin Smith	DENR
Scott Mouw	DENR

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 15, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
ANTHONY ALLEN	NCACC
Peter Gehred	CCNC
Dan Crawford	CCNC
Colleen Kochanek	Kochanek Law Group
Matthew Eastep	Smith Anderson
Henry Huteff	CocaCola
Amy McConkey	NC Beverage Assoc.
Tracy Kimbrell	Parker Poe
Sam Ugle	Rep. Alexander
Molly Diggins	Sierra Club
Drew Bell	Sierra Club
Tom Fransen	DWR, DENR

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 15, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Kathy Hawkins	Duke Energy
George Everett	Duke Energy
Nick Amman	Apple
Bruce Thompson	Parker 105

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 15, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
DAVID BARNES	Pigeon Sportsman
Andy Ellen	NCRMA
Elizabeth Robinson	NCRMA
Michael Thompson	Dominion
Ken Melton	K.M.A.
Elizabeth Biser	DENR
Kim Arnold	NCPA
Wendy Keeney	Policy Group

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 15, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
L Rogers	CWMTF
[signature]	NSS
Dave Sligh	CAFC
Doug Heron (Dork)	Williams Mullen
Adam Schafer	NCEL
Leon G. Billings	Former Maryland State Legislator
Andrew Cagle	DLC + Assoc.
[signature]	J. Warren + Assoc.
[signature]	JP Assoc
Lisa Martin	NC Home Builders
Rick Zechini	NC Assoc of Realtors

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 15, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
ART McMILLAN	NCDOT
TED SHERROD	NCDOT
Josh Dawson	Rep. Luebke
BRIAN DEMPSEY	MWC
Tommy Stevens	NCPC
Allison Fowler	NC State Grange
Cubie Beasley	Wake Co. citizen
LORI ANN HARRIS	~~HHA~~
	~~SHA~~
Jennifer Bell, P.E.	CH2M HILL
	NCFA

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 15, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Andrew Meehan	Capstrat
Jay Lentz	SAHZ
Tom Cors	TNC
Doug Misken	Capstrat
Mary Jacques	Lenovo
Nick Tosco	NCLM
Jim Blackburn	NC Association of County Commissioners
L. Andrews	NCFB
Fran Valluzzo	Dell
RLamm	RLA

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 15, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jim Johnson	BSA
Kathryn Westcott	ACEC/NC
Kellie Slappey	JLF
THOM ILES	JOHN DEERE
Cameron Hanby	Electric Cities of NC
David McGowan	NC Realtors
Sara Stuckey	NCRC
Patrick Woodie	NCRC
R Rogers	CWMTF
Tom Poole	Ward & Smith
Whitney Campbell	Jordan Price

HOUSE PAGES

ENVIRONMENT & NATURAL
NAME OF COMMITTEE RESOURCES DATE 06-15-10

1. Name: DESTINY BARNES 6. SAM HOLMES
County: NASH WAKE
Sponsor: REP. STEWART REP. HEAGARTY

2. Name: GEORGE HOYLE
County: VANCE
Sponsor: REP. CRAWFORD

3. Name: FRANKLIN IRVIN
County: VANCE
Sponsor: REP. CRAWFORD

4. Name: BETH CARTER
County: DUPLIN
Sponsor: TUCKER

5. Name: STONE FAISON
County: ORANGE
Sponsor: REP. FAISON

Hazel + Frank Alcock
Kim
Kristin
Kara
} Peeds
Pamlico Co.

SGT-AT-ARM

1. Name: FRED HINES 5. DAVID SHEARON
2. Name: EARL COKER
3. Name: FRANK PREVO
4. Name: JAMES WORTH

[illegible]

[illegible]

[illegible]

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

JUNE 22, 2010

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Tuesday, June 22, 2010, in room 643 of the Legislative Office Building with Representative Cullie Tarleton presiding. Members present were: Representatives Gillespie, Harrison, Justice, Underhill, Vice-chairs; Representatives K. Alexander, Blackwood, Floyd, Gibson, Insko, Luebke, Martin, May, McComas, McElraft, Tucker, West, and Womble.

Representative Tarleton called the meeting to order at 12:00 noon. He began by introducing the pages for the day and the sergeant-at-arms staff assigned to the meeting (list attached).

The first item on the agenda was House Bill 1870 – A BILL TO BE ENTITLED AN ACT TO (1) REQUIRE LOCAL GOVERNMENTS TO ADOPT ORDINANCES TO REGULATE SITE PLANNING, DESIGN, AND CONSTRUCTION OF ARTIFICIAL SLOPES IN MOUNTAINOUS AREAS TO PROMOTE SAFE AND STABLE SLOPES FOR DEVELOPMENT, TO REDUCE THE LIKELIHOOD OF SLOPE FAILURES ON DEVELOPED OR DISTURBED LAND, AND TO PROTECT HUMAN SAFETY AND PROPERTY; AND (2) DIRECT THE SEDIMENTATION CONTROL COMMISSION TO ASSIST LOCAL GOVERNMENTS IN DEVELOPMENT AND IMPLEMENTATION OF SAFE SLOPE CONSTRUCTION PROGRAMS AND TO DEVELOP A MODEL ORDINANCE. This bill had been tabled at the June 15 meeting. Representative Whilden was recognized as a primary sponsor of the bill and she, with the assistance of Committee Counsel Jeff Hudson, gave the committee a recap of the June 15th discussion. Representative Harrison was recognized to present an amendment (amendment #2 attached). A number of committee members expressed opinions regarding the language. Rick Zechini with the North Carolina Association of Realtors was asked to assist in answering some of the questions posed by members. Following a lengthy discussion, the amendment passed by a vote of 9 in favor and 7 opposed. At this point, Represent West presented another amendment (amendment #3 attached). Jennifer McGinnis, Committee Counsel was called upon to explain the amendment. After limited discussion, the amendment passed without objection. At this point, Representative Tarleton recognized speakers who had asked to express opinions on the bill. They included Margaret Hartzell with Environment North Carolina and Lisa Martin with the North Carolina Home Builders Association. Once all questions and concerns had been addressed, Jeff Hudson, Committee Counsel, suggested that the amendments be rolled into a committee substitute for HB 1870, which committee members found agreeable. Representative Harrison made a motion for a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be referred to the Committee on Finance. This motion passed by a vote of 8 in favor and 6 in opposition.

Next on the agenda was Committee Substitute for HB 1804 - A BILL TO BE ENTITLED AN ACT TO DIRECT THE ENERGY POLICY COUNCIL TO IDENTIFY, STUDY, AND RECOMMEND POLICIES TO INCREASE ENERGY EFFICIENCY AND CONSERVATION, PROMOTE RENEWABLE ENERGY RESOURCES, AND REDUCE CARBON EMISSIONS, AS RECOMMENDED BY THE LEGISLATIVE COMMISSION ON GLOBAL CLIMATE

CHANGE. Representative Harrison was recognized to present the bill. Following a period of questions and comments by committee members, Representative Womble made a motion for a favorable report. This motion passed unanimously.

The last item on the agenda was HJR 2015 - A JOINT RESOLUTION TO DIRECT THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY THE IMPACT OF ENVIRONMENTAL TOXINS ON HUMAN HEALTH. Representative Harrison was called upon to present the bill. A proposed committee substitute was distributed and Representative Justice made a motion for the PCS to be before the committee for consideration. Representative Tucker presented an amendment (attached). Because of time constraints, Representative Tarleton announced that HJR 2015 would need to be tabled until the next meeting of the committee.

The committee, the meeting was adjourned at 12:55 p.m.

Respectfully submitted,

Representative Cullie Tarleton, Chair

Shara Graham, Committee Assistant

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE

MEETING

June 22, 2010
12:00 NOON
Room 643 LOB

Representative Tarleton, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

HB 1870 - Safe Artificial Slope Construction Act
Primary Sponsors: Reps. Goforth, Whilden

HB 1804 - Energy Policy Council Green Energy Study
Primary Sponsors: Reps. Harrison, Underhill, Wilkins, Bryant

HJR 2015 - Study Impact of Toxins on Health
Primary Sponsors: Reps. Harrison, Glazier, Fisher, Insko

ADJOURNMENT

Ayes 9
No 7

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1870

AMENDMENT NO. 2
(to be filled in by Principal Clerk)

H1870-ARI-40 [v.1]

Comm. Sub. [NO]
Amends Title [YES]
First Edition

Date June 15, 2010

Representative Harrison

moves to amend the bill on page 1, line 10,
by rewriting that line to read:

"ORDINANCE; AND (3) PROVIDE FOR DISCLOSURE OF INFORMATION TO PURCHASERS OF PROPERTIES LOCATED IN CERTAIN AREAS DESIGNATED ON STABILITY INDEX MAPS PREPARED BY THE NORTH CAROLINA GEOLOGICAL SURVEY.";

on page 6, lines 23 and 24,
by inserting between those lines:

" **SECTION 3.** G.S. 47E-4(b) reads as rewritten:

"(b) The North Carolina Real Estate Commission shall develop and require the use of a standard disclosure statement to comply with the requirements of this section. The disclosure statement shall specify that certain transfers of residential property are excluded from this requirement by G.S. 47E-2, including transfers of residential property made pursuant to a lease with an option to purchase where the lessee occupies or intends to occupy the dwelling, and shall include at least the following characteristics and conditions of the property:

(1) The water supply and sanitary sewage disposal ~~system;~~system.

(2) The roof, chimneys, floors, foundation, basement, and other structural components and any modifications of these structural ~~components;~~components.

(3) The plumbing, electrical, heating, cooling, and other mechanical ~~systems;~~systems.

(4) Present infestation of wood-destroying insects or organisms or past infestation the damage for which has not been ~~repaired;~~repaired.

(5) The zoning laws, restrictive covenants, building codes, and other land-use restrictions affecting the real property, any encroachment of the real property from or to adjacent real property, and notice from any governmental agency affecting this real ~~property; and~~property.

(6) Presence of lead-based paint, asbestos, radon gas, methane gas, underground storage tank, hazardous material or toxic material (whether buried or covered), and other environmental contamination.

(7) The location of the property within an area ranked as high or moderate relative debris/earth flow/slide hazard area as designated on maps prepared by the North Carolina Geological Survey.

(b1) The disclosure statement shall provide the owner with the option to indicate whether the owner has actual knowledge of the specified characteristics or conditions, or the owner is making no representations as to any characteristic or condition.";

by renumbering the remaining sections accordingly; and

on page 6, lines 33 and 34,
by rewriting those lines to read:

"2011. Sections 2 and 5 of this act are effective when it becomes law. Section 3 of this act becomes effective July 1, 2012. Section 4 of this act becomes effective July 1, 2010.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

Aye 17

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1870

No 2

AMENDMENT NO. 3
(to be filled in by Principal Clerk)

H1870-ARI-39 [v.2]

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Date _____,2010

Representative West

moves to amend the bill on page 2, lines 36 through 37, by inserting between those lines:

"(c) If a site on which regulated slope construction activity is to be conducted is accessed by a right-of-way, and application of the provisions of this Article or rules adopted thereunder would render the right-of-way unusable for its intended purpose or application of the provisions or rules would be cost prohibitive, the provisions of the Article and rules adopted thereunder shall not apply to the construction activity to be conducted at the site.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1870

AMENDMENT NO. 3
(to be filled in by Principal Clerk)

H1870-ARI-39 [v.2]

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Date _____,2010

Representative West

moves to amend the bill on page 2, lines 36 through 37, by inserting between those lines:

"(c) If a site on which regulated slope construction activity is to be conducted is accessed by a right-of-way, and application of the provisions of this Article or rules adopted thereunder would render the right-of-way unusable for its intended purpose or application of the provisions or rules would be cost prohibitive, the provisions of the Article and rules adopted thereunder shall not apply to the construction activity to be conducted at the site.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1870
PROPOSED COMMITTEE SUBSTITUTE H1870-PCS80641-RIf-69

Short Title: Safe Artificial Slope Construction Act. (Public)

Sponsors:

Referred to:

May 20, 2010

A BILL TO BE ENTITLED

AN ACT TO (1) REQUIRE LOCAL GOVERNMENTS TO ADOPT ORDINANCES TO REGULATE SITE PLANNING, DESIGN, AND CONSTRUCTION OF ARTIFICIAL SLOPES IN MOUNTAINOUS AREAS TO PROMOTE SAFE AND STABLE SLOPES FOR DEVELOPMENT, TO REDUCE THE LIKELIHOOD OF SLOPE FAILURES ON DEVELOPED OR DISTURBED LAND, AND TO PROTECT HUMAN SAFETY AND PROPERTY; (2) DIRECT THE SEDIMENTATION CONTROL COMMISSION TO ASSIST LOCAL GOVERNMENTS IN DEVELOPMENT AND IMPLEMENTATION OF SAFE SLOPE CONSTRUCTION PROGRAMS AND TO DEVELOP A MODEL ORDINANCE; AND (3) PROVIDE FOR DISCLOSURE OF INFORMATION TO PURCHASERS OF PROPERTIES LOCATED IN CERTAIN AREAS DESIGNATED ON STABILITY INDEX MAPS PREPARED BY THE NORTH CAROLINA GEOLOGICAL SURVEY.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 113A of the General Statutes is amended by adding a new Article to read:

"Article 19.
"Safe Artificial Slope Construction.

"**§ 113A-261. Short title.**

This act shall be known as the Safe Artificial Slope Construction Act of 2010.

"**§ 113A-262. Definitions.**

The definitions set forth in G.S. 113A-52 apply to this Article. In addition, the following definitions apply to this Article:

(1) 'Affected area' means an area located on a mountain face or steep hillside that (i) has an average slope of forty percent (40%) or greater or (ii) is designated with a slide hazard ranking of 'moderate' or 'high' on a Stability Index Map prepared by the North Carolina Geological Survey.

(2) 'Artificial slope construction' means any slope-disturbing activity that creates or changes any slope, or attempts to do so.

(3) 'Construction' means any slope-disturbing activity and includes reconstruction, repair, stabilization, alteration, or expansion.

(4) 'Slope-disturbing activity' means any use of the land by any person in residential, industrial, educational, institutional, or commercial development

and highway and road construction and maintenance that results in removal of ground cover or a change in topography of the land.

(5) 'Slope' means an inclined ground or earth material surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

"**§ 113A-263. Legislative findings.**

Improper development on steep slopes poses a threat to human safety and property. Economic pressures, unknown site conditions, inadequate or inappropriate design, and inexperienced persons conducting slope-disturbing activity can affect the quality, safety, and stability of development on steep slopes. It is the intent of this Article to require implementation of reasonable, effective control standards for artificial slope construction and to improve construction and development practices that will result in higher levels of safety and stability on developed land and to decrease the potential for damage to human health, property, and natural resources.

"**§ 113A-264. Purpose.**

This Article provides for a cooperative program of safe artificial slope construction to be administered by local governments consistent with minimum statewide management requirements established by the Sedimentation Control Commission.

"**§ 113A-265. Applicability of this Article.**

(a) This Article applies to artificial slope construction in any affected area as defined in G.S. 113A-262 that is located within a county designated pursuant to subdivision (1) of Section 3 of S.L. 2005-1.

(b) This Article shall not apply to artificial slope construction activities conducted in connection with the following:

(1) Graves for the burial of human remains.

(2) Local government operation of a landfill.

(3) Excavations for wells or tunnels.

(4) Exploratory excavations not requiring a building permit that are less than one-half acre of disturbed area conducted under the direction of a professional engineer licensed under Chapter 89C of the General Statutes or other professional approved by the agency having jurisdiction.

(5) Natural slope failures, including, but not limited to, landslides.

(6) Underground storage tanks exempt from regulation under the Occupational Safety and Health Act.

(7) Ditches exempt from regulation under the Occupational Safety and Health Act.

(8) Artificial slope construction for below grade portions of a residential or commercial structure for which an unexpired building permit has been issued if the construction complies with all applicable local, State, and federal regulations, including, but not limited to, the North Carolina State Building Code.

(9) Activities set forth in G.S. 113A-52.01.

(c) If a site on which regulated slope construction activity is to be conducted is accessed by a right-of-way, and application of the provisions of this Article or rules adopted thereunder would render the right-of-way unusable for its intended purpose or application of the provisions or rules would be cost prohibitive, the provisions of this Article and rules adopted thereunder shall not apply to the construction activity to be conducted at the site.

"**§ 113A-266. Duties of the Sedimentation Control Commission.**

(a) Identification of Affected Areas. – The Commission shall identify the jurisdictions that are required to adopt ordinances pursuant to this Article by showing them on a map or drawing, describing them in a document, or any combination thereof. These maps, drawings, or documents shall identify the affected areas within the jurisdiction. The Commission shall file

this information with the governing body of each identified jurisdiction. Determinations by the Commission of affected areas under this section shall be conclusive in the absence of fraud.

(b) Development of Safe Artificial Slope Construction Requirements. – The Commission shall adopt rules for the safe construction of artificial slopes in affected areas, including, but not limited to, minimum requirements for:

(1) Adequate site assessment, planning, design, and technical standards for construction of stable artificial slopes.

(2) Submission, review, approval and disapproval, and modification procedures for safe artificial slope construction plans. Plans involving construction of retaining walls over eight feet in height shall be prepared by a professional engineer licensed under Chapter 89C of the General Statutes to practice as a professional engineer in the State. All plans shall be approved by the agency having jurisdiction prior to initiation of any artificial slope construction activity in affected areas. Any artificial slope construction in affected areas shall be performed by a general contractor licensed under Article 1 of Chapter 87 of the General Statutes and shall be conducted in compliance with an approved plan.

(3) Demonstrations of financial responsibility.

(4) Submission of reports to document compliance.

(5) Inspection and enforcement procedures, which shall include a requirement that each site on which regulated slope construction activity is being conducted shall be inspected while the work is being performed and after the work is completed to ensure compliance with this Article and that proper measures are implemented to construct a stable artificial slope at the site.

(6) Exemptions applicable to certain activities.

(c) Assistance to Local Governments. – The Commission shall provide assistance to local governments in the development of safe artificial slope construction programs that comply with this Article. As part of its assistance to local governments, the Commission shall approve and make available a model safe artificial slope construction ordinance. The safe artificial slope construction ordinance shall, at a minimum, address the requirements set forth in subsection (b) of this section.

(d) Review and Approval of Local Ordinances Required. – The Commission shall review each ordinance that regulates the construction of artificial slopes in affected areas submitted by a local government pursuant to G.S. 113A-267 and, within 90 calendar days of receipt thereof, shall notify the local government submitting the ordinance that the ordinance has been approved, approved with modifications, or disapproved. The Commission shall approve an ordinance only if it determines that the requirements of the ordinance meet or exceed the requirements of this Article and rules adopted thereunder.

"**§ 113A-267. Mandatory local programs.**

(a) Adoption of Ordinance Required. – Each county that has within its jurisdiction an affected area shall adopt an ordinance that regulates the construction of artificial slopes in affected areas by any person. The ordinance shall apply in unincorporated areas within the county and to incorporated areas within the county except that a city may adopt an ordinance in which case the municipal ordinance shall apply within the city and the extraterritorial jurisdiction of the city. The ordinance shall at least meet and may exceed the minimum requirements of this Article and rules adopted pursuant to this Article.

(b) Review and Approval of Ordinance Required. – Prior to adoption of an ordinance that regulates the construction of artificial slopes in affected areas, or modification of the ordinance, a local government shall submit the ordinance to the Commission for review and receive approval from the Commission for the ordinance.

(c) Public Hearing. – The governing body of a local government must hold a public hearing on the question of adoption of an ordinance that regulates the construction of artificial slopes in affected areas prior to adoption. The public hearing required by this section shall be held upon at least 10 calendar days' notice in a newspaper of general circulation in the jurisdiction adopting the ordinance. Testimony at the hearing shall be recorded, and any and all exhibits shall be preserved within the custody of the governing body of the local government. The testimony and evidence shall be made available for inspection and scrutiny by any person.

(d) Filing of Documents. – Each local government that adopts an ordinance pursuant to the provisions of this Article shall file a copy of the ordinance with the Commission. The local government shall file the information provided by the Commission pursuant to G.S. 113A-266(a) with the register of deeds in the jurisdiction where the affected area is located. Copies of the maps, drawings, or documents that are certified by the register of deeds shall be admitted in evidence in all courts and shall have the same force and effect as would the original.

(e) Application of Ordinance by Local Governments. – An ordinance adopted pursuant to the provisions of this Article shall apply to all affected areas as defined in G.S. 113A-262 within the jurisdiction. Determinations by a local government of affected areas made pursuant to the provisions of this Article shall be conclusive in the absence of fraud.

(f) Fees. – An ordinance adopted by a local government may establish a fee, not to exceed one hundred dollars ($100.00), for the review of an artificial slope construction plan and related activities.

(g) Implementation and Enforcement. – Each local government that is required to adopt an ordinance pursuant to the provisions of this Article shall implement and enforce the ordinance in accordance with the requirements of this Article and rules adopted thereunder.

(h) Creation or Designation of Agencies to Administer; Joint Programs. – Local governments are authorized to create or designate agencies or subdivisions of local government to administer and enforce the ordinance. Two or more units of local government are authorized to establish a joint program and to enter into any agreements that are necessary for the proper administration and enforcement of a safe artificial slope construction ordinance. The resolutions establishing any joint program must be duly recorded in the minutes of the governing body of each local government participating in the program, and a certified copy of each resolution must be filed with the Commission.

"**§ 113A-268. Enforcement and penalties.**

(a) Civil Penalties. –

(1) The Commission may assess a civil penalty of not more than five thousand dollars ($5,000) per year against any local government that fails to adopt a safe artificial slope construction ordinance as required by this Article or willfully fails to administer or enforce the provisions of its program in substantial compliance with the minimum statewide safe slope construction requirements of this Article.

(2) A local government that administers a safe slope construction program may assess a civil penalty against any person who violates any of the provisions of this Article or any ordinance, rule, or order adopted or issued pursuant to this Article by the Commission or by a local government or who initiates or continues a slope construction activity for which an artificial slope construction plan is required except in accordance with the terms, conditions, and provisions of an approved plan. The maximum civil penalty for a violation is five thousand dollars ($5,000) per year.

a. Prior to assessing a civil penalty against a person pursuant to this section, a local government that administers a safe slope construction program shall immediately serve a notice of violation upon the

person. The notice may be served by any means authorized under G.S. 1A-1, Rule 4. A notice of violation shall specify a date by which the person must comply and inform the person of the actions that need to be taken for compliance. Any person who fails to comply within the time specified shall then be subject to civil and criminal penalties for violations as provided in this section.

b. A local government that administers a safe slope construction program shall determine the amount of the civil penalty and shall notify the person who is assessed the civil penalty of the amount of the penalty and the reason for assessing the penalty. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator to either pay the assessment or contest the assessment within 30 calendar days by filing a petition for a contested case under Article 3 of Chapter 150B of the General Statutes. If a violator does not pay a civil penalty assessed by a local government within 30 calendar days after it is due, the local government may institute a civil action to recover the amount of the assessment. The civil action may be brought in the superior court of any county where the violation occurred or the violator's residence or principal place of business is located. A civil action must be filed within three years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment.

c. In determining the amount of the penalty, a local government that administers a safe slope construction program shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator saved by noncompliance, whether the violation was committed willfully, and the prior record of the violator in complying or failing to comply with this Article.

(3) Civil penalties collected by a local government under this subsection shall be used as provided in Section 7 of Article IX of the Constitution of North Carolina.

(b) Criminal Penalties. – Any person who knowingly or willfully violates any provision of this Article or any ordinance, rule, regulation, or order duly adopted or issued by the Commission or a local government, or who knowingly or willfully initiates a slope construction activity for which an artificial slope construction plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a Class 2 misdemeanor that may include a fine not to exceed five thousand dollars ($5,000).

(c) Injunctive Relief. –

(1) Whenever the governing body of a local government having jurisdiction has reasonable cause to believe that any person is violating or is threatening to violate any ordinance, rule, regulation, or order adopted or issued by the local government pursuant to this Article, or any term, condition, or provision of an artificial slope construction plan over which it has jurisdiction, the governing body may, either before or after the institution of any other action or proceeding authorized by this Article, institute a civil action in the name of the local government for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the

superior court of the county in which the violation is occurring or is threatened.

(2) Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under subdivision (1) or (2) of this subsection shall not relieve any party to the proceeding from any civil or criminal penalty prescribed for violations of this Article."

SECTION 2. G.S. 143B-298 reads as rewritten:

"**§ 143B-298. Sedimentation Control Commission – creation; powers and duties.**

(a) There is hereby created the Sedimentation Control Commission of the Department of Environment and Natural Resources with the power and duty to develop and administer a sedimentation control program as herein provided.

(b) The Sedimentation Control Commission has the following powers and duties:

(1) In cooperation with the Secretary of the Department of Transportation and Highway Safety and other appropriate State and federal agencies, develop, promulgate, publicize, and administer a comprehensive State erosion and sedimentation control program.

(2) Develop and adopt on or before July 1, 1974, rules and regulations for the control of erosion and sedimentation pursuant to G.S. 113A-54.

(3) Conduct public hearings pursuant to G.S. 113A-54.

(4) Assist local governments in developing erosion and sedimentation control programs pursuant to G.S. 113A-60.

(5) Assist and encourage other State agencies in developing erosion and sedimentation control programs pursuant to G.S. 113A-56.

(6) Develop recommended methods of control of sedimentation and prepare and make available for distribution publications and other materials dealing with sedimentation control techniques pursuant to G.S. 113A-54.

(7) Adopt rules for the safe construction of artificial slopes in affected areas as provided in G.S. 113A-266(b) and develop a model safe artificial slope construction ordinance as provided in G.S. 113A-266(c).

(8) Assist local governments in developing safe artificial slope construction programs pursuant to G.S. 113A-266."

SECTION 3. G.S. 47E-4(b) reads as rewritten:

"(b) The North Carolina Real Estate Commission shall develop and require the use of a standard disclosure statement to comply with the requirements of this section. The disclosure statement shall specify that certain transfers of residential property are excluded from this requirement by G.S. 47E-2, including transfers of residential property made pursuant to a lease with an option to purchase where the lessee occupies or intends to occupy the dwelling, and shall include at least the following characteristics and conditions of the property:

(1) The water supply and sanitary sewage disposal ~~system;~~system.

(2) The roof, chimneys, floors, foundation, basement, and other structural components and any modifications of these structural ~~components;~~components.

(3) The plumbing, electrical, heating, cooling, and other mechanical ~~systems;~~systems.

(4) Present infestation of wood-destroying insects or organisms or past infestation the damage for which has not been ~~repaired;~~repaired.

(5) The zoning laws, restrictive covenants, building codes, and other land-use restrictions affecting the real property, any encroachment of the real property

from or to adjacent real property, and notice from any governmental agency affecting this real ~~property; and~~property.

(6) Presence of lead-based paint, asbestos, radon gas, methane gas, underground storage tank, hazardous material or toxic material (whether buried or covered), and other environmental contamination.

(7) The location of the property within an area ranked as high or moderate relative debris/earth flow/slide hazard area as designated on maps prepared by the North Carolina Geological Survey.

(b1) The disclosure statement shall provide the owner with the option to indicate whether the owner has actual knowledge of the specified characteristics or conditions, or the owner is making no representations as to any characteristic or condition."

SECTION 4. There is appropriated from the General Fund to the Department of Environment and Natural Resources the sum of ten thousand dollars ($10,000) for the 2010-2011 fiscal year and the sum of ten thousand dollars ($10,000) for the 2011-2012 fiscal year to implement the provisions of this act.

SECTION 5. Section 1 of this act becomes effective December 1, 2012, except that G.S. 113A-266, as enacted by Section 1 of this act, is effective when this act becomes law. Each local government that is required to adopt a safe artificial slope construction ordinance pursuant to the provisions of G.S. 113A-267, as enacted by Section 1 of this act, shall submit its ordinance to the Sedimentation Control Commission for approval on or before December 1, 2011. Sections 2 and 5 of this act are effective when this act becomes law. Section 3 of this act becomes effective July 1, 2012. Section 4 of this act becomes effective July 1, 2010.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representatives Tarleton, Harrison, and Underhill (Vice-Chairs) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

HB 1870 A BILL TO BE ENTITLED AN ACT TO (1) REQUIRE LOCAL GOVERNMENTS TO ADOPT ORDINANCES TO REGULATE SITE PLANNING, DESIGN, AND CONSTRUCTION OF ARTIFICIAL SLOPES IN MOUNTAINOUS AREAS TO PROMOTE SAFE AND STABLE SLOPES FOR DEVELOPMENT, TO REDUCE THE LIKELIHOOD OF SLOPE FAILURES ON DEVELOPED OR DISTURBED LAND, AND TO PROTECT HUMAN SAFETY AND PROPERTY; AND (2) DIRECT THE SEDIMENTATION CONTROL COMMISSION TO ASSIST LOCAL GOVERNMENTS IN DEVELOPMENT AND IMPLEMENTATION OF SAFE SLOPE CONSTRUCTION PROGRAMS AND TO DEVELOP A MODEL ORDINANCE.

☒ With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on FINANCE.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 1804*
Committee Substitute Favorable 6/10/10

Short Title: Energy Policy Council Green Energy Study. (Public)

Sponsors:

Referred to:

May 19, 2010

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE ENERGY POLICY COUNCIL TO IDENTIFY, STUDY, AND RECOMMEND POLICIES TO INCREASE ENERGY EFFICIENCY AND CONSERVATION, PROMOTE RENEWABLE ENERGY RESOURCES, AND REDUCE CARBON EMISSIONS, AS RECOMMENDED BY THE LEGISLATIVE COMMISSION ON GLOBAL CLIMATE CHANGE.

The General Assembly of North Carolina enacts:

SECTION 1. The Energy Policy Council shall identify, study, and recommend policies to significantly increase energy efficiency and conservation, promote the development of renewable energy resources, and reduce carbon emissions. The Council shall specifically consider:

(1) Revision of the Utilities Commission's guiding language for electric utilities in order to promote significant increases in electric utility investment in energy efficiency, conservation, and renewable energy resources.
(2) Incentives to encourage demand side management.
(3) Incentives to encourage the use of more energy efficient appliances.
(4) Allowing electric utilities to earn more from energy saved through efficiency and conservation programs than from energy generated.
(5) Policies to encourage the development of renewable energy resources in the State.
(6) Simplifying the net-metering sign-up process and increasing the purchase price for energy generated from renewable energy resources under the net-metering program.
(7) Removing barriers to interconnection.
(8) Requiring electric utilities to include potential future carbon costs when developing their biennial integrated resource plans.
(9) Prohibiting the construction of new coal-fired power plants that do not capture and sequester carbon dioxide.
(10) Changes to the State renewable energy portfolio standard to allow greater use of combined heat and power and energy recycling technologies.
(11) Removing barriers to implementation and permitting of energy recycling.
(12) Authorizing the sale of thermal energy.
(13) The potential benefits of a public benefit charge.
(14) Evaluating the feasibility of establishing a third-party administrator for energy efficiency programs in the State and to also study options for the framework, structure, and governance upon which a third-party energy efficiency administrator would operate.

SECTION 2. The Energy Policy Council may submit an interim report of its findings and recommendations to the Environmental Review Commission and the Joint Legislative Utility Review Committee no later than February 1, 2011, and shall submit a final report of its findings and recommendations to the Environmental Review Commission and the Joint Legislative Utility Review Committee no later than May 1, 2011.

SECTION 3. This act is effective when it becomes law.

HOUSE BILL 1804:
Energy Policy Council Green Energy Study

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	June 22, 2010
Introduced by:	Reps. Harrison, Underhill, Wilkins, Bryant	**Prepared by:**	Jennifer Mundt
Analysis of:	Second Edition		Legislative Analyst

SUMMARY: ***House Bill 1804 would direct the Energy Policy Council to identify, study, and recommend policies to increase energy efficiency and conservation, promote renewable energy resources, and reduce carbon emissions.***

House Bill 1804 is a recommendation of the Legislative Commission on Global Climate Change.

[As introduced, this bill was identical to S1225, as introduced by Sen. Stein, which is currently in Rules and Operations of the Senate.]

BACKGROUND: The Energy Policy Council was created as part of the implementation of the North Carolina Energy Policy Act of 1975. The purpose of the Council is to advise and make recommendations on energy policy to the Governor and the General Assembly and to serve as the central energy policy planning body of the State.

BILL ANALYSIS: House Bill 1804 would direct the Energy Policy Council (Council) to identify, study, and recommend policies to significantly increase energy efficiency and conservation, promote the development of renewable energy resources, and reduce carbon emissions. In the conduct of its study, the Council must consider:

- Revising the Utilities Commission's guiding language for electric utilities to promote increased investment in energy efficiency, conservation, and renewable energy resources.
- Incentives to encourage demand side management and the use of more energy efficient appliances.
- Allowing electric utilities to earn more from energy saved through efficiency and conservation programs than from energy generated.
- Policies to encourage the development of renewable energy resources in the State.
- Simplifying the net-metering enrollment process and increasing the purchase price for energy generated by net-metering.
- Removing barriers to interconnection.
- Requiring electric utilities to include potential future carbon costs when developing biennial integrated resource plans.
- Prohibiting the construction of new coal-fired power plants that do not capture and sequester carbon dioxide.
- Changes to the State renewable energy portfolio standard to allow greater use of combined heat and power and energy recycling technologies.
- Removing barriers to implementation and permitting of energy recycling.
- Authorizing the sale of thermal energy.

- The potential benefits of a public benefit charge.
- Evaluating the feasibility of establishing a third-party administrator for energy efficiency programs in the State and to also study options for the framework, structure, and governance upon which such an administrator would operate.

The Council may submit an interim report of its findings and recommendations to the Environmental Review Commission and the Joint Legislative Utility Review Committee on or before February 1, 2011 and must submit a final report of its findings and recommendations to those same entities on or before May 1, 2011.

EFFECTIVE DATE: This act is effective when it becomes law.

H1804-SMTA-95(e2) v3

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representatives Tarleton, Harrison and Underhill (Vice-Chairs) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒Committee Substitute for

HB 1804 A BILL TO BE ENTITLED AN ACT TO DIRECT THE ENERGY POLICY COUNCIL TO IDENTIFY, STUDY, AND RECOMMEND POLICIES TO INCREASE ENERGY EFFICIENCY AND CONSERVATION, PROMOTE RENEWABLE ENERGY RESOURCES, AND REDUCE CARBON EMISSIONS, AS RECOMMENDED BY THE LEGISLATIVE COMMISSION ON GLOBAL CLIMATE CHANGE.

☒ With a favorable report.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

June 22, 2010

SPEAKERS: PLEASE SIGN IN BELOW

Name & Title	Representing (Agency/Company)	Bill #	Support/ Oppose
Margaret Hartzell	Environment North Carolina	1870	
Lisa Martin	NC Home Builders	1870	

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 22, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sam Watson	NCUC
Jim Hackett	NCDC / NCBC
Tommy Stevens	NCPC
L. Andrews	NCFB
Johanna Reese	DOT
Kathy Hawkins	Duke Energy
[illegible]	NCAEC
Dana Fenton	City of Charlotte
Patrick Bafflin	NCAEC
CS 6/22/10	JLS
Stephanie Kass	Rep Insko's Office

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 22, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Colleen Kochanek	Kochanek Law Group
Ben Matthews	NCDPI
[illegible]	Diageo Chateau NC
Amy McConkey	NC Beverage Assoc
Kellie Skipper	John Locke Foundation
Whitney Campbell	Jordan Price
Weatherly B Rose	Hunton + Williams
Hassan Khan	NCCN
[illegible]	Weyerhaeuser Co.
Sharon Miller	CUCA
Andrew Meehan	Capstrat

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 22, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Francis M. Neville JR	DENR - DLR
Tracy Davis	DENR - DLR
Joy Hicks	NCDA&CS
David McLeod	NCDA&CS
Kevin Leonard	NCACC
Kimberlee Ranken	Sierra Club
Peter Grigg	CCNC
Peter Gehred	CCNC
Carl Mackenzie	Sierra Club
Mary Munchel	Poyner Spruill

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 22, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Margaret Haftzell	Environment North Carolina
Gabrielle Vires	Environment North Carolina
James Simms	NCDENR
Janie Hauser	DENR
Elizabeth Biser	DENR
Robin Smith	DENR
Gary Harris	NC Petroleum & Convenience Marketers
Cameron Hanby	Electricities of NC
Beau Memory	NCDOT
Elizabeth Ortiz	Environment NC
Tara Steinmetz	Environment North Carolina
Tom BEAN	NC EDF, NCWF

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 22, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[signature]	RLS DSSOC
BRIAN DEMPSEY	MWC
[signature]	mcic
TOM AKINS	NCANPHA

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 22, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lisa Martin	NC Home Builders
Bo Heath	
Harry Kaplan	
Dan Crawford	CCNC
Dan Conrad	CNNC
Drew Ball	Sierra Club
David Crawford	AIA NC
Jon Holman	Nicholas Inst / Duke U
Sam Walker	Rep Kelly Alexander
Molly Diggins	Sierra Club
Tom Vitaglione	AEC
Nick TOSCO	NCLM

HOUSE PAGES

ENVIRONMENT AND NATURAL RESOURCES
NAME OF COMMITTEE _____ DATE JUNE 22, 2010

1. Name: ELLIOTT BEST
County: WAYNE
Sponsor: REP. SAGER

2. Name: MARK FALKNER
County: VANCE
Sponsor: REP. WRAY

3. Name: JOSHUA COCKMAN
County: DAVIE
Sponsor: REP. HOWARD

4. Name: HUNTER RIMMER
County: WAKE
Sponsor: REP. STAM

5. Name: JOHN TAYLOR
County: ORANGE
Sponsor: SPEAKER HACKNEY

SGT-AT-ARM

1. Name: * FRED HINES
2. Name: KEN BURROUGHS
3. Name: EARL COKER
4. Name: JAMES WORTH
5 __: DAVID SHEARON

[illegible] David Clinton
Thomas Nobel
Ruby Cooke
Ken Robinson
Lloyd Hines

*

Charles Hancock
Orange
John Lloyd
Red Clay
Maine
Harold Sinclair
Red Richard
Dwaine
Stephen Cochran
Red Nova
Jorge
Mark Mercer
Red Cooke
Wayne
Ethel [illegible]

[illegible]

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

JUNE 24, 2010

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Thursday, June 24, 2010, in room 643 of the Legislative Office Building. Representative Alice Underhill presided. Members present were: Representatives Gillespie, Harrison, and Tarleton, Vice-Chairs; Representatives K. Alexander, Blackwood, Floyd, Haire, Martin, May, McComas, McElraft, Samuelson, Tucker, and Womble.

Representative Underhill called the meeting to order at 12:01 p.m. She began by introducing the pages for the day and the sergeant-at-arms staff assigned to the meeting (list attached).

Representative Underhill announced that the committee would continue discussing the proposed committee substitute for HJR 2015 – A JOINT RESOLUTION TO DIRECT THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY THE IMPACT OF ENVIRONMENTAL TOXINS ON HUMAN HEALTH. This bill had been tabled at the last meeting. Representative Harrison continued with her presentation of the bill. Fawn Pattison, the Director of Toxic Free North Carolina, was called upon to answer specific questions from committee members. Once committee members had satisfied their concerns, Representative Underhill recognized Elizabeth Hudgins, Director of the Child Fatality Task Force, who spoke in support of the bill. Following her remarks, Representative Womble made a motion for a favorable report as to the committee substitute resolution, which changes the title, unfavorable as to the original resolution, and recommendation that the bill be referred to the Committee on Health. This motion passed unanimously.

Next on the agenda was House Committee Substitute for SB 1337 - A BILL TO BE ENTITLED AN ACT TO REQUIRE TRAINING OF OPERATORS OF UNDERGROUND STORAGE TANKS IN ORDER TO COMPLY WITH A REQUIREMENT OF THE FEDERAL ENERGY POLICY ACT OF 2005, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION. Senator Davis was recognized to present his bill. As a proposed committee substitute was being distributed, Representative Tarleton made a motion that the PCS be placed before the committee for consideration. Senator Davis called upon Jennifer McGinnis, Committee Counsel, to assist in explaining the PCS. Grover Nichols, Section Chief of Underground Storage Programs with the Department of Environment and Natural Resources, was called upon to answer specific questions from committee members. Following a thorough discussion of the PCS, Representative Tarleton made a motion for a favorable report as to House committee substitute bill 2, unfavorable as to House committee substitute bill 1. This motion passed without objection.

With no further business to come before the committee, the meeting then adjourned at 12:25 p.m.

Respectfully submitted,

Alice G. Underhill
Representative Alice Underhill, Chair

Shara Graham
Shara Graham, Committee Assistant

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE

MEETING

June 24, 2010
12:00 NOON
Room 643 LOB

Representative Underhill, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

HJR 2015 - Study Impact of Toxins on Health
Primary Sponsors: Reps. Harrison, Glazier, Fisher, Insko

SB 1337 - UST Operator Training Program
Primary Sponsor: Sen. Davis

ADJOURNMENT

HOUSE JOINT RESOLUTION 2015*

Sponsors:	Representatives Harrison, Glazier, Fisher, Insko (Primary Sponsors); M. Alexander, Carney, Cotham, Gill, Goodwin, Jackson, Jones, Lucas, Luebke, Mobley, Parfitt, Rapp, and Weiss.
Referred to:	Environment and Natural Resources, if favorable, Health, if favorable, Rules, Calendar, and Operations of the House.

May 26, 2010

A JOINT RESOLUTION TO DIRECT THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY THE IMPACT OF ENVIRONMENTAL TOXINS ON HUMAN HEALTH.

Whereas, the United States Senate and House of Representatives have introduced the Safe Chemicals Act of 2010 to ensure that health risks from chemicals are adequately understood and managed; and

Whereas, awareness and understanding of the complexity of the environmental impacts on human health are still growing; and

Whereas, environmental factors have been implicated in the onset and exacerbation of numerous chronic and acute health problems such as diabetes, infertility, and kidney disease; and

Whereas, there are growing suspicions in the scientific community that one of the causes of the growing epidemic of autism spectrum disorders (ASDs) may be toxins in the environment; and

Whereas, a growing number of studies indicate a strong link between environmental exposures and cancer; and

Whereas, these diseases and disorders occur in all racial, ethnic, and socioeconomic groups; and

Whereas, the diagnosis and treatment of these diseases and disorders place a huge financial burden on families, health insurers, and public assistance programs; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The Environmental Review Commission shall study the impact of environmental toxins on human health and report its findings and recommendations, including any proposals for legislation or administrative action, to the General Assembly no later than the convening of the 2012 Session of the 2011 General Assembly. The findings and recommendations shall include all of the following:

(1) A survey of legislation in other states that ban toxins and chemicals, along with an assessment of the effectiveness of the legislation.

(2) A survey of how other states have set up entities within state government to review and regulate toxins and chemicals that have or will be introduced into the stream of commerce.

(3) A review of incentives proposed or enacted in other states to promote the growth of the green chemistry sector, including a special analysis of documented environmental, public health, and economic benefits, including job creation, within the states.

SECTION 2. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE JOINT RESOLUTION 2015*
PROPOSED COMMITTEE SUBSTITUTE H2015-CSTA-45 [v.3]

6/22/2010 11:40:06 AM

Sponsors:

Referred to:

May 26, 2010

A JOINT RESOLUTION TO AUTHORIZE THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY THE IMPACT OF ENVIRONMENTAL TOXINS AND CHEMICALS ON HUMAN HEALTH.

Whereas, the United States Senate and House of Representatives have introduced the Safe Chemicals Act of 2010 to ensure that health risks from chemicals are adequately understood and managed; and

Whereas, awareness and understanding of the complexity of the environmental impacts on human health are still growing; and

Whereas, environmental factors have been implicated in the onset and exacerbation of numerous chronic and acute health problems such as diabetes, infertility, and kidney disease; and

Whereas, there are growing suspicions in the scientific community that one of the causes of the growing epidemic of autism spectrum disorders (ASDs) may be toxins in the environment; and

Whereas, a growing number of studies indicate a strong link between environmental exposures and cancer; and

Whereas, these diseases and disorders occur in all racial, ethnic, and socioeconomic groups; and

Whereas, the diagnosis and treatment of these diseases and disorders place a huge financial burden on families, health insurers, and public assistance programs; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The Environmental Review Commission, with the assistance of the Department of Environment and Natural Resources and the Department of Health and Human Services, may study the impact of environmental toxins and chemicals on human health and report its findings and recommendations, including any legislative proposals, to the General Assembly no later than the convening of the 2012 Session of the 2011 General Assembly. In the conduct of this study, the Commission shall:

(1) Survey legislation enacted in other states that bans or limits the use of environmental toxins and chemicals and assess the effectiveness of such legislation.

(2) Survey how other states have established entities within state government to review and regulate environmental toxins and chemicals that have been or will be introduced into the stream of commerce.

(3) Review incentives that have been proposed or enacted in other states that promote the growth of the green chemistry industry that includes an analysis

of documented environmental, public health, and economic benefits, including job creation, in those states.

(4) Identify current State and federal programs for the review and regulation of environmental toxins and chemicals and recommend any supplementary programs the Commission determines to be necessary for the protection of human health.

SECTION 2. This resolution is effective upon ratification.

HOUSE JOINT RESOLUTION 2015: Study Impact Of Toxins On Health

2009-2010 General Assembly

Committee:	Environment and Natural Resources, if favorable, Health, if favorable, Rules, Calendar, and Operations of the House	**Date:**	June 22, 2010
Introduced by:	Reps. Harrison, Glazier, Fisher, Insko	**Prepared by:**	Jennifer Mundt Legislative Analyst
Analysis of:	PCS to First Edition H2015-CSTA-45 [v.3]		

SUMMARY: ***The Proposed Committee Substitute for House Joint Resolution 2015 (PCS) would authorize the Environmental Review Commission to study the impact of environmental toxins and chemicals on human health.***

[As introduced, this bill was identical to S1416, as introduced by Sen. Bingham, which is currently in Rules and Operations of the Senate.]

BILL ANALYSIS: The PCS would provide that the Environmental Review Commission (Commission), with the assistance of the Departments of Environment and Natural Resources and Health and Human Services, may study the impact of environmental toxins and chemicals on human health. The Commission would be required to report its findings and recommendations, including legislative proposals, to the General Assembly on or before the convening of the 2012 legislative session. In conducting the study, the Commission must:

1. Survey legislation enacted in other states that bans or limits the use of environmental toxins and chemicals and assess the effectiveness of such legislation.
2. Survey how other states have established entities to review and regulate environmental toxins and chemicals that have been or will be introduced into the stream of commerce.
3. Review incentives proposed or enacted in other states that promote the growth of the green chemistry industry. This review must include documented environmental, public health, and economic benefits, including job creation.
4. Identify current State and federal programs for the review and regulation of environmental toxins and chemicals and recommend any supplementary programs the Commission determines to be necessary for the protection of human health.

EFFECTIVE DATE: The resolution would be effective upon ratification.

H2015-SMTA-96(CSTA-45) v3

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 2015*

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

H2015-ATA-33 [v.2]

Comm. Sub. [YES]
Amends Title [NO]
H2015-CSTA-45 [v.3]

Date 6-22 ,2010

Representative Tucker

moves to amend the bill on page 2
by inserting the following between lines 6 and 7:

"(5) Conduct a cost-benefit and economic impact analysis for any recommendation made pursuant to this act.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE JOINT RESOLUTION 2015*
PROPOSED COMMITTEE SUBSTITUTE H2015-PCS80644-TA-45

Sponsors:

Referred to:

May 26, 2010

A JOINT RESOLUTION AUTHORIZING THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY THE IMPACT OF ENVIRONMENTAL TOXINS AND CHEMICALS ON HUMAN HEALTH.

Whereas, the United States Senate and House of Representatives have introduced the Safe Chemicals Act of 2010 to ensure that health risks from chemicals are adequately understood and managed; and

Whereas, awareness and understanding of the complexity of the environmental impacts on human health are still growing; and

Whereas, environmental factors have been implicated in the onset and exacerbation of numerous chronic and acute health problems such as diabetes, infertility, and kidney disease; and

Whereas, there are growing suspicions in the scientific community that one of the causes of the growing epidemic of autism spectrum disorders (ASDs) may be toxins in the environment; and

Whereas, a growing number of studies indicate a strong link between environmental exposures and cancer; and

Whereas, these diseases and disorders occur in all racial, ethnic, and socioeconomic groups; and

Whereas, the diagnosis and treatment of these diseases and disorders place a huge financial burden on families, health insurers, and public assistance programs; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The Environmental Review Commission, with the assistance of the Department of Environment and Natural Resources and the Department of Health and Human Services, may study the impact of environmental toxins and chemicals on human health and report its findings and recommendations, including any legislative proposals, to the General Assembly no later than the convening of the 2012 Regular Session of the 2011 General Assembly. In the conduct of this study, the Commission shall:

(1) Survey legislation enacted in other states that bans or limits the use of environmental toxins and chemicals and assess the effectiveness of such legislation.

(2) Survey how other states have established entities within state government to review and regulate environmental toxins and chemicals that have been or will be introduced into the stream of commerce.

(3) Review incentives that have been proposed or enacted in other states that promote the growth of the green chemistry industry, including an analysis of

documented environmental, public health, and economic benefits, including job creation, in those states.

(4) Identify current State and federal programs for the review and regulation of environmental toxins and chemicals and recommend any supplementary programs the Commission determines to be necessary for the protection of human health.

(5) Conduct a cost-benefit and economic impact analysis for any recommendation made pursuant to this act.

SECTION 2. This resolution is effective upon ratification.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representatives Underhill, Harrison, and Tarleton (Vice-Chairs) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

HJR 2015 A JOINT RESOLUTION TO DIRECT THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY THE IMPACT OF ENVIRONMENTAL TOXINS ON HUMAN HEALTH.

☒ With a favorable report as to the committee substitute resolution, which changes the title, unfavorable as to the original resolution, and be re-referred to the Committee on Health.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 3

SENATE BILL 1337*

Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/1/10
House Committee Substitute Favorable 6/10/10

Short Title: UST Operator Training Program. (Public)

Sponsors:

Referred to:

May 20, 2010

A BILL TO BE ENTITLED

AN ACT TO REQUIRE TRAINING OF OPERATORS OF UNDERGROUND STORAGE TANKS IN ORDER TO COMPLY WITH A REQUIREMENT OF THE FEDERAL ENERGY POLICY ACT OF 2005, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.94KK through G.S. 143-215.94MM are reserved for future codification purposes.

SECTION 2. Article 21A of Chapter 143 of the General Statutes is amended by adding a new Part to read:

"Part 2D. Training of Underground Storage Tank Operators.

"**§ 143-215.94NN. Applicability.**

The requirements of this Part apply to underground storage tank systems regulated under Subtitle I of the Resource Conservation and Recovery Act of 1976, Pub. L. 94-580, 90 Stat. 2795, 42 U.S.C. § 6901, et seq., as amended, except those excluded by regulation at 40 Code of Federal Regulations 280.10(b) (July 1, 2009 Edition) and those deferred by regulation at 40 Code of Federal Regulations 280.10(c) (July 1, 2009 Edition).

"**§ 143-215.94OO. Definitions.**

Unless a different meaning is required by the context, the definitions in G.S. 143-212 and G.S. 143-215.94A apply in this Part.

(1) "Primary operator" means a person having primary responsibility for the daily on-site operation and maintenance of an underground storage tank system.

(2) "Emergency response operator" means an on-site employee whose responsibilities include addressing emergencies presented by a spill or release, or responding to alarms or releases from an underground storage tank system. For an unmanned facility, "emergency response operator" means the person responsible for responding to emergencies or alarms or releases at the facility.

(3) "Underground storage tank" means: (i) any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is ten percent (10%) or more beneath the surface of the ground; and (ii) to which this Part applies pursuant to G.S. 143-215.94NN.

(4) "Underground storage tank system" or "tank system" means an underground storage tank, connected underground piping, underground ancillary equipment, dispenser, and containment system, if any.

"**§ 143-215.94PP. Designation of operators to be trained.**

(a) The owner of an underground storage tank system shall designate the primary operator of the underground storage tank system. The person designated shall be the underground storage tank operator, as defined in 40 Code of Federal Regulations Part 280 (July 1, 2009 Edition), or an employee of the underground storage tank operator. There shall be a designated primary operator of the underground storage tank system at all times, until the underground storage tank system has been permanently closed. If the owner fails to designate a primary operator, the owner shall be deemed to be the primary operator of the underground storage tank system for purposes of this Part.

(b) The primary operator shall designate one or more emergency response operators. There shall be at least one emergency response operator at the site at all times during which a regulated substance is being withdrawn from, or is capable of being withdrawn from, the underground storage tank system. For an unmanned facility, the primary operator shall designate a person who is on call to respond to emergencies or alarms at the facility. The unmanned facility shall have an automated notification system in place that will alert the designated emergency response operator of an emergency or activated alarm at the facility. If the primary operator fails to designate one or more emergency response operators, the primary operator shall be deemed to be the emergency response operator of the underground storage tank system.

(c) A person may act as both the primary operator and the emergency response operator of the underground storage tank system.

"**§ 143-215.94QQ. Training requirements for primary operators.**

(a) The Department shall develop and implement a training program for primary operators. The training program shall provide instruction on the proper operation and maintenance of the underground storage tank system at the facility, principles of construction and safety, and all regulatory requirements associated with the underground storage tank system. The training may consist of a combination of on-site evaluation and testing, as well as in-class or online instruction and testing. In order to satisfactorily complete the training, a primary operator shall, at a minimum, demonstrate all of the following:

(1) Knowledge of the requirements for spill prevention, overfill prevention, release detection, corrosion protection, emergency response, and product compatibility.

(2) Site-specific knowledge of the equipment used at the facility and the components of the underground storage tank system, and the methods of release detection and release prevention associated with the underground storage tank components.

(3) Knowledge of the requirements for demonstrating financial responsibility.

(4) Understanding of notification requirements associated with the underground storage tank system, including requirements for reporting releases and suspected releases.

(5) Understanding of the requirements for the temporary and permanent closure of underground storage tank systems.

(6) Knowledge of the emergency response operator training requirements, and the actions to be taken in response to emergencies and alarms.

(b) A primary operator shall be retrained if an inspection at the facility reveals that the underground storage tank system is not in substantial compliance with the requirements for: release detection, release prevention, financial responsibility, emergency response, suspected release reporting and investigation, the proximity of the underground storage tank system to

water supply wells and surface water, and permitting. A primary operator who is required to be retrained shall complete the retraining within a reasonable time as determined by the Department. The retraining shall include training in the areas for which the underground storage tank system was not in compliance.

(c) The primary operator shall maintain documentation to show that the operator has satisfactorily completed all training required by this section.

"**§ 143-215.94RR. Training requirements for emergency response operators.**

(a) The Department shall develop a training program for emergency response operators. In order to satisfactorily complete the training, an emergency response operator shall, at a minimum, demonstrate all of the following:

(1) General understanding of the underground storage tank system at the facility, and knowledge of the location and proper operation of the safety and emergency response equipment.

(2) Understanding of the actions to be taken in response to an emergency, including situations posing an immediate danger or threat to the public or to the environment and requiring immediate action.

(3) Understanding of leak detection alarms and preparations needed to respond to alarms before a release has occurred.

(4) Recognition of unusual operating conditions, equipment failures, or environmental conditions that may indicate a release, and knowledge of the steps to take in response to a suspected release.

(5) Knowledge of immediate steps to take in response to a confirmed release to stop further release and to contain spills before they reach the environment.

(b) The primary operator is responsible for implementing the training program developed by the Department for emergency response operators. The primary operator shall train each emergency response operator of the underground storage tank system at the facility. Prior to training an emergency response operator, the primary operator shall have satisfactorily completed all training required by this section. The primary operator shall maintain documentation of training provided to emergency response operators.

"**§ 143-215.94SS. Enforcement.**

This Part may be enforced as provided in G.S. 143-215.94W, 143-215.94X, and 143-215.94Y.

"**§ 143-215.94TT. Effect on other laws.**

The requirements of this Part are in addition to, and not in lieu of, any other requirements applicable to underground storage tank owners or operators, as defined in 40 Code of Federal Regulations Part 280 (July 1, 2009 Edition), under law."

SECTION 3. Notwithstanding G.S. 143-215.94PP, as enacted by Section 2 of this act, each owner of an underground storage tank system shall designate a primary operator or emergency response operator no later than August 1, 2010, or the owner shall be deemed to be the primary operator and emergency response operator of the underground storage tank system. Each designated primary operator and emergency response operator shall complete the training required by this section no later than August 8, 2012. For primary operators designated after August 8, 2012, the owner shall notify the Department of the designation, and the primary operator shall be trained within 30 days after assuming operation and maintenance responsibilities for the underground storage tank system. After August 8, 2012, no person may assume the responsibilities of emergency response operator without having first satisfactorily completed emergency response operator training, and the primary operator shall ensure that no person assumes the responsibilities of emergency response operator unless the person has satisfactorily completed emergency response operator training.

SECTION 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 1337*

Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/1/10
House Committee Substitute Favorable 6/10/10
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1337-PCS35475-RI-70

Short Title: UST Operator Training Program. (Public)

Sponsors:

Referred to:

May 20, 2010

A BILL TO BE ENTITLED

AN ACT TO REQUIRE TRAINING OF OPERATORS OF UNDERGROUND STORAGE TANKS IN ORDER TO COMPLY WITH A REQUIREMENT OF THE FEDERAL ENERGY POLICY ACT OF 2005, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.94KK through G.S. 143-215.94MM are reserved for future codification purposes.

SECTION 2. Article 21A of Chapter 143 of the General Statutes is amended by adding a new Part to read:

"Part 2D. Training of Underground Storage Tank Operators.

"**§ 143-215.94NN. Applicability.**

The requirements of this Part apply to underground storage tank systems regulated under Subtitle I of the Resource Conservation and Recovery Act of 1976, Pub. L. 94-580, 90 Stat. 2795, 42 U.S.C. § 6901, et seq., as amended, except those excluded by regulation at 40 Code of Federal Regulations 280.10(b) (July 1, 2009 Edition) and those deferred by regulation at 40 Code of Federal Regulations 280.10(c) (July 1, 2009 Edition).

"**§ 143-215.94OO. Definitions.**

Unless a different meaning is required by the context, the definitions in G.S. 143-212 and G.S. 143-215.94A apply in this Part.

(1) "Primary operator" means a person having primary responsibility for the daily on-site operation and maintenance of an underground storage tank system.

(2) "Emergency response operator" means an on-site person whose responsibilities include addressing emergencies presented by a spill or release, or responding to alarms or releases from an underground storage tank system. For an unmanned facility, "emergency response operator" means the person responsible for responding to emergencies or alarms or releases at the facility.

(3) "Underground storage tank" means: (i) any one or combination of tanks (including underground pipes connected thereto) that is used to contain an

accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is ten percent (10%) or more beneath the surface of the ground; and (ii) to which this Part applies pursuant to G.S. 143-215.94NN.

(4) "Underground storage tank system" or "tank system" means an underground storage tank, connected underground piping, underground ancillary equipment, dispenser, and containment system, if any.

"**§ 143-215.94PP. Designation of operators to be trained.**

(a) The owner of an underground storage tank system shall designate the primary operator of the underground storage tank system. The person designated shall be the underground storage tank operator, as defined in 40 Code of Federal Regulations Part 280 (July 1, 2009 Edition), or an employee or agent of the underground storage tank operator. There shall be a designated primary operator of the underground storage tank system at all times, until the underground storage tank system has been permanently closed. If the owner fails to designate a primary operator, the owner shall be deemed to be the primary operator of the underground storage tank system for purposes of this Part.

(b) The primary operator shall designate one or more emergency response operators. The person designated shall be an employee or agent of the primary operator. There shall be at least one emergency response operator at the site at all times during which a regulated substance is being withdrawn from, or is capable of being withdrawn from, the underground storage tank system. For an unmanned facility, the primary operator shall designate an emergency response operator who is on call to respond to emergencies or alarms at the facility. The unmanned facility shall have an automated notification system in place that will alert the emergency response operator of an emergency or activated alarm at the facility. If the primary operator fails to designate one or more emergency response operators, the primary operator shall be deemed to be the emergency response operator of the underground storage tank system.

(c) A person may act as both the primary operator and the emergency response operator of the underground storage tank system.

"**§ 143-215.94QQ. Training requirements for primary operators.**

(a) The Department shall develop and implement a training program for primary operators. The training program shall provide instruction on the proper operation and maintenance of the underground storage tank system at the facility, principles of construction and safety, and all regulatory requirements associated with the underground storage tank system. The training may consist of a combination of on-site evaluation and testing, as well as in-class or online instruction and testing. In order to satisfactorily complete the training, a primary operator shall, at a minimum, demonstrate all of the following:

(1) Knowledge of the requirements for spill prevention, overfill prevention, release detection, corrosion protection, emergency response, and product compatibility.

(2) Site-specific knowledge of the equipment used at the facility and the components of the underground storage tank system, and the methods of release detection and release prevention associated with the underground storage tank components.

(3) Knowledge of the requirements for demonstrating financial responsibility.

(4) Understanding of notification requirements associated with the underground storage tank system, including requirements for reporting releases and suspected releases.

(5) Understanding of the requirements for the temporary and permanent closure of underground storage tank systems.

(6) Knowledge of the emergency response operator training requirements, and the actions to be taken in response to emergencies and alarms.

(b) A primary operator shall be retrained if an inspection at the facility reveals that the underground storage tank system is not in substantial compliance with the requirements for: release detection, release prevention, financial responsibility, emergency response, suspected release reporting and investigation, the proximity of the underground storage tank system to water supply wells and surface water, and permitting. A primary operator who is required to be retrained shall complete the retraining within a reasonable time as determined by the Department. The retraining shall include training in the areas for which the underground storage tank system was not in compliance.

(c) The primary operator shall maintain documentation to show that the operator has satisfactorily completed all training required by this section.

"**§ 143-215.94RR. Training requirements for emergency response operators.**

(a) The Department shall develop a training program for emergency response operators. In order to satisfactorily complete the training, an emergency response operator shall, at a minimum, demonstrate all of the following:

(1) General understanding of the underground storage tank system at the facility, and knowledge of the location and proper operation of the safety and emergency response equipment.

(2) Understanding of the actions to be taken in response to an emergency, including situations posing an immediate danger or threat to the public or to the environment and requiring immediate action.

(3) Understanding of leak detection alarms and preparations needed to respond to alarms before a release has occurred.

(4) Recognition of unusual operating conditions, equipment failures, or environmental conditions that may indicate a release, and knowledge of the steps to take in response to a suspected release.

(5) Knowledge of immediate steps to take in response to a confirmed release to stop further release and to contain spills before they reach the environment.

(b) The primary operator is responsible for implementing the training program developed by the Department for emergency response operators. The primary operator shall train each emergency response operator of the underground storage tank system at the facility. Prior to training an emergency response operator, the primary operator shall have satisfactorily completed all training required by this section. The primary operator shall maintain documentation of training provided to emergency response operators.

"**§ 143-215.94SS. Tank systems for emergency power generators.**

This section applies only to a facility that utilizes an underground storage tank system to store fuel solely for use by emergency power generators. A primary operator that has satisfactorily completed the training required by G.S. 143-215.94QQ at a facility shall be deemed trained as the primary operator at another facility that has identical spill prevention, overfill prevention, release detection, corrosion protection, emergency response, and product compatibility requirements as the facility for which the primary operator has satisfactorily completed training.

"**§ 143-215.94TT. Enforcement.**

This Part may be enforced as provided in G.S. 143-215.94W, 143-215.94X, and 143-215.94Y.

"**§ 143-215.94UU. Effect on other laws.**

The requirements of this Part are in addition to, and not in lieu of, any other requirements applicable to underground storage tank owners or operators, as defined in 40 Code of Federal Regulations Part 280 (July 1, 2009 Edition), under law."

SECTION 3. Notwithstanding G.S. 143-215.94PP, as enacted by Section 2 of this act, each owner of an underground storage tank system shall designate a primary operator or emergency response operator no later than August 1, 2010, or the owner shall be deemed to be the primary operator and emergency response operator of the underground storage tank system. Each designated primary operator and emergency response operator shall complete the training required by this section no later than August 8, 2012. For primary operators designated after August 8, 2012, the owner shall notify the Department of the designation, and the primary operator shall be trained within 30 days after assuming operation and maintenance responsibilities for the underground storage tank system. After August 8, 2012, no person may assume the responsibilities of emergency response operator without having first satisfactorily completed emergency response operator training, and the primary operator shall ensure that no person assumes the responsibilities of emergency response operator unless the person has satisfactorily completed emergency response operator training.

SECTION 4. This act is effective when it becomes law.

SENATE BILL 1337:
UST Operator Training Program

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	June 24, 2010
Introduced by:	Sen. Davis	**Prepared by:**	Jennifer McGinnis Committee Counsel
Analysis of:	PCS to Third Edition S1337-CSRI-70		

SUMMARY: ***Senate Bill 1337 would create training requirements for operators of regulated underground storage tank (UST) systems[1], in order to comply with provisions of the federal Energy Policy Act of 2005. Specifically, the bill requires that: (i) primary and emergency response operators be designated for USTs; (ii) the Department of Environment and Natural Resources (DENR) design and implement a training program for primary and emergency response operators; and (iii) current operators be trained by August 8, 2012.***

The Proposed Committee Substitute (PCS) adds a new section (see 143-215.94SS on page 3 of the bill) to address training of primary operators of identical tank systems used to store fuel solely for use by emergency power generators, and makes additional technical and clarifying changes.

Senate Bill 1337 is a recommendation of the Environmental Review Commission.

[As introduced, this bill was identical to H1760, as introduced by Reps. Gibson, Harrison, Tucker, which is currently in House Energy and Energy Efficiency, if favorable, Environment and Natural Resources.]

CURRENT LAW:

The General Assembly established the UST program within DENR in 1985 in response to a federal mandate to regulate USTs. The State's UST program enforces the federal regulatory standards for commercial USTs, oversees site cleanup of UST incidents, and manages operations for the Commercial and Noncommercial Leaking Petroleum UST Trust Funds. Federal funding for USTs comes from the Leaking UST Trust Fund in the form of a cooperative agreement grant for cleaning up leaking tanks and a grant for administering the regulation of commercial tanks. The United States Environmental Protection Agency distributes grant funds based on a formula that considers minimum distribution amounts, state need, and program performance. In FY 2008-09, the State's UST program received $2.6 million in federal grants, which were used to support program administration.

The federal Energy Policy Act of 2005 requires that states which receive federal funding for UST programs implement a training program for operators of USTs on proper operation and maintenance. Under the Act, training of current operators must be completed by August 8, 2012.

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[1] A tank (or a combination of tanks) and connected piping having at least 10% of their combined volume underground. The following types of tanks do not have to meet federal UST regulations: farm and residential tanks of 1,100 gallons or less capacity holding motor fuel used for noncommercial purposes; tanks storing heating oil used on the premises where it is stored; tanks on or above the floor of underground areas, such as basements or tunnels; tanks of 110 gallons or less capacity; and emergency spill and overfill tanks.

BILL ANALYSIS: Senate Bill 1337 would require that:

- UST system owners designate a primary operator for the UST system.
- A primary operator must designate one or more emergency response operators for the system. There must be at least one emergency response operator at the site at all times during which a regulated substance is being withdrawn from, or is capable of being withdrawn from, the UST system. For an unmanned facility, the primary operator must designate a person who is on-call to respond to emergencies or alarms at the facility. The unmanned facility must have an automated notification system in place that will alert the designated emergency response operator of an emergency or activated alarm at the facility. A person may act as both the primary operator and the emergency response operator for the system.
- DENR design and implement a training program for primary and emergency response operators.

  The training program for primary operators must require that the operator demonstrate understanding and/or knowledge of a specified list of issues associated with the proper operation and maintenance of the UST system at the facility, principles of construction and safety, and regulatory requirements associated with the system. The training may consist of a combination of on-site evaluation and testing, as well as in-class or online instruction and testing. If an inspection at the facility reveals that the system is not in substantial compliance with certain requirements, the operator must be retrained.

  The training program for emergency response operators must require that the operator demonstrate understanding and/or recognition of: the facility's system, and the location and proper operation of the safety and emergency response equipment; actions to be taken in response to an emergency; leak detection alarms and preparations needed to respond to alarms before a release has occurred; unusual operating conditions, equipment failures, or environmental conditions that may indicate a release, and steps to take in response to a suspected release; and immediate steps to take in response to a confirmed release in order to stop further release and to contain spills before they reach the environment.

- By August 8, 2012, DENR train primary operators, and primary operators train their emergency response operators. (Operators designated after August 8, 2012, would need to be trained within 30 days of assuming responsibilities for operations and maintenance of a UST).

EFFECTIVE DATE: The bill would be effective when it becomes law.

S1337-SMRI-98(CSRI-70) v2

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representatives Underhill, Harrison, and Tarleton (Vice-Chairs) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒ House Committee Substitute # 1 for
SB 1337 A BILL TO BE ENTITLED AN ACT TO REQUIRE TRAINING OF OPERATORS OF UNDERGROUND STORAGE TANKS IN ORDER TO COMPLY WITH A REQUIREMENT OF THE FEDERAL ENERGY POLICY ACT OF 2005, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☒ With a favorable report as to House committee substitute bill 2, unfavorable as to House committee substitute bill 1.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

June 24, 2010

SPEAKERS: PLEASE SIGN IN BELOW

Name & Title	Representing (Agency/Company)	Bill #	Support/ Oppose
Grover Nichols	DENR - UST	SB 1337	
Elizabeth Hudgins	CFTF	SB 1337	

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — **Name of Committee**

June 24, 2010 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Kathy Matthews	DENR LST
[illegible]	Agricultural [illegible]
David McLeod	NCDACS
Margaret Harzell	Environment North Carolina
Elizabeth Hudgins	CFTF
Rick Taylor	Taylor Law Firm
[illegible]	
Ray Starling	NCDA+CS
[illegible]	NCDA+CS
Joy Hicks	NCDA+CS

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 24, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Harry L. Hill	Wayne County
Anita Phillips	Wayne County
Josiah Whitley	Wayne Co
Melissa Abrams	NCCN
Deatrice Williams	CUCA
Kimberlee Rankin	Sierra Club
Janie Hauser	DENR
Robin Smith	DENR
Grover Nichols	DERP UST
Ruth Strauss	DENR UST
Jessica Tarver	DENR UST

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 24, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Drew Bail	Sierra Club
Edgar Miller	CTNC
PAIGE WORSHAM	SCHOOL OF GOVERNMENT
Nick Tosco	NCLM
Carl Mackensen	Sierra Club
Dan Conrad	NCCN
Hassan Khan	NCCN
Octavius Cox	Visitor (Wayne County)
Courtney Marshall	visitor (Wayne County)
Chelsea Hill	visitor (Wayne County)
Dee McCuller	Visitor (Wayne County)

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 24, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
VaDeidre Atkinson	Wayne
June A. Monk	" "
Corinthian Atkinson	" "
Ashley McFarland	" "
Cole Tisdale	" "
Eric Macklin	" "
Djimon Wood	" "
Mary Manuel	Wayne Co.
Christian O'Quinn	" "
Howard Henderson	Wayne Co
Isaiah Henderson	"

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 24, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Darnell Reaves	Wayne County, NC
Demitrus Dorsey	Wayne County, NC
Krystal Cannon	Wayne County, NC
Kameshia Brown	Wayne County, NC
Aleyah Brown	Wayne County, NC
Zaachia Cobb	Wayne County, NC
Harold Barnes	Wayne County, NC
DaShaunti Waters	Wayne County, NC
Idawatha Jones	Wayne County, N.C.
Shakim Lewis	Wayne County, NC
Cecil montague	Wayne County, N.C

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 24, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Desmond Thomas Jr.	Wayne County
Kiera Rowe	Wayne County
Talayah Hester	Wayne County
Randi o'Quinn	Wayne County
Jasmine Laurel	Wayne County
Ryan Warren	Greene County
Gina Dees	wayne county
Lynell Shepard	Wayne County
Peter Daniel	NC Farm Bureau
Andrew Cagle	DLC + Assoc.
BRIAN DEMPSEY	MWC

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — **Name of Committee**

June 24, 2010 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Julie Youngman	Southern Envtl Law Center
Carson Hanley	Electricities of NC
Doug Hill	NCPCW
Doug Lassiter	NCSTA
Tommy Stevens	NCPC
George Everett	Duke Energy
John McAlister	NC Chamber
[illegible]	AEW
Preston Howard	NCIC
Gray Wilson	FRD
John Goodnight	NC CHAMBER

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — **Name of Committee**

June 24, 2010 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
SCOTT GARDNER	DUKE ENERGY

643
12:00

HOUSE PAGES

NAME OF COMMITTEE Environment & Natural Res. DATE 6.24.2010

1. Name:	Sean Stamm	Sofia Boneth
County:	Buncombe	WAKE
Sponsor:	Whilden	Ross
2. Name:	Web Anderson	ALEX MORTON
County:	Mecklenburg	Montgomery
Sponsor:	M. Alexander	Goodwin
3. Name:	~~JAKE~~ Little	
County:	Mecklenburg	
Sponsor:	M. Alexander	
4. Name:	Katy Fuqua	
County:	Orange	
Sponsor:	Holliman	
5. Name:	Nalini Peres-da-Silva	
County:	Orange	
Sponsor:	Hackney	

SGT-AT-ARM

1. Name: Frank Prevo Earl Coker
2. Name: Carlton Adams
3. Name: Young Bae
4. Name: David Sharon

2009-2010

HOUSE ENVIRONMENT & NATURAL RESOURCES

MINUTES

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

JUNE 29, 2010

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Tuesday, June 29, 2010, in room 643 of the Legislative Office Building with Representative Cullie Tarleton presiding. Members present were: Representatives Gillespie, Underhill, Vice-chairs; Representatives K. Alexander, Blackwood, Floyd, Gibson, Haire, Insko, Luebke, Martin, May, McElraft, Samuelson, Tucker, West, and Womble.

Representative Tarleton called the meeting to order at 12:05 p.m. He began by introducing the pages for the day and the sergeant-at-arms staff assigned to the meeting (list attached).

The first item on the agenda was SB 1259 - A BILL TO BE ENTITLED AN ACT TO DISAPPROVE A RULE TO CHANGE THE WATER QUALITY CLASSIFICATION OF BOYLSTON CREEK. Senator Snow was recognized to present the bill. Representative Guice, also representing the Boylston Creek area, spoke in favor of the bill. Jeff Hudson, Committee Counsel, and Robin Smith with the Department of Environment and Natural Resources were called upon to answer some of committee members' questions. Margaret Hartzell, Policy Advocate for Environment North Carolina spoke in opposition to the bill. Tom Bean, representing the North Carolina Wildlife Federation also indicated his group's opposition to the proposed legislation. Representative Martin asked that the bill be carried over for further discussion, but was told that the bill would be going to another committee where additional questions might be addressed. Representative Tucker made a motion for a favorable report and recommendation that the bill be referred to the Committee on Judiciary I. This motion passed with 9 voting in favor and 6 voting in opposition.

Next on the agenda was Committee Substitute for SB 886 - A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT EACH FISHERY MANAGEMENT PLAN MUST INCLUDE A STANDARD TO ENSURE THAT THE PLAN ACHIEVES THE TARGET MORTALITY RATE FOR THE FISHERY OR FISHERIES. Representative Kelly Alexander was recognized to present the bill in the absence of Senator Vaughan, the bill's primary sponsor. As a proposed committee substitute was being distributed, Representative Floyd made a motion that it be placed before the committee for consideration. Molly Duggins, State Director of the Sierra Club spoke in opposition to the bill. Once questions and concerns from the committee were satisfactorily addressed, Representative Blackwood made a motion for a favorable report as to the House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill and recommendation that the House committee substitute bill be referred to the Committee on Energy and Energy Efficiency. This motion received approval from the committee.

With no further business to come before the committee, the meeting was adjourned at 12:55 p.m.

Respectfully submitted,

Representative Cullie Tarleton, Chair

Shara Graham, Committee Assistant

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE

MEETING

June 29, 2010
12:00 NOON
Room 643 LOB

Representative Tarleton, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

SB 1259 - Disapprove Boylston Creek Reclassification
Primary Sponsor: Sen. Snow

SB 886 - Improve Success of FMPs
Primary Sponsor: Sen. Vaughan

ADJOURNMENT

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S

SENATE BILL 1259

Short Title:	Disapprove Boylston Creek Reclassification.	(Public)
Sponsors:	Senator Snow.	
Referred to:	Agriculture/Environment/Natural Resources.	

May 20, 2010

A BILL TO BE ENTITLED

AN ACT TO DISAPPROVE A RULE TO CHANGE THE WATER QUALITY CLASSIFICATION OF BOYLSTON CREEK.

The General Assembly of North Carolina enacts:

SECTION 1. Pursuant to G.S. 150B-21.3(b1), French Broad River Basin Rule 15A NCAC 02B .0304, as adopted by the Environmental Management Commission on March 12, 2009, and approved by the Rules Review Commission on April 16, 2009, is disapproved.

SECTION 2. This act is effective when it becomes law.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representatives Tarleton, Harrison, and Underhill (Vice-Chairs) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

SB 1259 A BILL TO BE ENTITLED AN ACT TO DISAPPROVE A RULE TO CHANGE THE WATER QUALITY CLASSIFICATION OF BOYLSTON CREEK.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on JUDICIARY I.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ The bill/resolution is re-referred to the Committee on _____.

SENATE BILL 886

Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/7/09

Short Title: Improve Success of FMPs. (Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT EACH FISHERY MANAGEMENT PLAN MUST INCLUDE A STANDARD TO ENSURE THAT THE PLAN ACHIEVES THE TARGET MORTALITY RATE FOR THE FISHERY OR FISHERIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-182.1(b) reads as rewritten:

"(b) The goal of the plans shall be to ensure the long-term viability of the State's commercially and recreationally significant species or fisheries. Each plan shall be designed to reflect fishing practices so that one plan may apply to a specific fishery, while other plans may be based on gear or geographic areas. Each plan shall:

(1) Contain necessary information pertaining to the fishery or fisheries, including management goals and objectives, status of relevant fish stocks, stock assessments for multiyear species, fishery habitat and water quality considerations consistent with Coastal Habitat Protection Plans adopted pursuant to G.S. 143B-279.8, social and economic impact of the fishery to the State, and user conflicts.

(2) Recommend management actions pertaining to the fishery or fisheries.

(3) Include conservation and management measures that will provide the greatest overall benefit to the State, particularly with respect to food production, recreational opportunities, and the protection of marine ecosystems, and that will produce a sustainable harvest.

(4) Specify a time period, not to exceed 10 years from the date of the adoption of the plan, for ending overfishing and achieving a sustainable harvest. This subdivision shall only apply to a plan for a fishery that is overfished. This subdivision shall not apply to a plan for a fishery where the biology of the fish or environmental conditions make ending overfishing and achieving a sustainable harvest within 10 years impracticable.

(5) Include a standard to ensure that the Fishery Management Plan achieves the target mortality rate for the fishery or fisheries."

SECTION 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 886
Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/7/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S886-CSSY-20 [v.2]

Short Title: Cleanfields Act of 2010. (Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ESTABLISHMENT OF CLEANFIELDS RENEWABLE ENERGY DEMONSTRATION PARKS IN THE STATE.

The General Assembly of North Carolina enacts:

SECTION 1. Legislative findings. – The General Assembly makes the following findings regarding the need for cleanfields renewable energy demonstration parks:

(1) Economic development in the State will be served by providing an opportunity to convert former manufacturing sites into cleanfields renewable energy demonstration parks, thereby providing employment opportunities for the residents of North Carolina.

(2) The health and safety of the citizens of North Carolina will be served through the assessment and remediation of environmental conditions at former manufacturing facilities.

(3) The public interest of the State will be served by diversifying the resources used to reliably meet the energy needs of consumers in the State; providing greater energy security through the use of indigenous energy resources available within the State; and encouraging private investment in renewable energy and energy efficiency.

(4) The public interest of the State will be served by encouraging former operators of manufacturing facilities to transfer ownership in property, making it possible for new operators to restart production at such facilities.

(5) The State and the public will directly benefit from the innovative approach utilized in a cleanfields renewable energy demonstration park to resolving pressing societal and environmental issues facing the State and its citizens.

(6) The public interest of the State will be served by the innovative nature of a cleanfields renewable energy demonstration park as a model for future projects and for its ability to provide information on the risks and complexity associated with the development of renewable energy projects.

SECTION 2. Criteria for designation. – A parcel or tract of land, or any combination of contiguous parcels or tracts of land, that meet all of the following criteria may be designated as a cleanfields renewable energy demonstration park:

(1) The park consists of at least 250 acres of contiguous property.

(2) All of the real property comprising the park is contiguous to a body of water.

(3) The property within the park is or may be subject to remediation under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. § 9601, et seq.), except for a site listed on the National Priorities List pursuant to 42 U.S.C. § 9605.

(4) The park contains a manufacturing facility that is idle, underutilized, or curtailed and that one time employed at least 250 people.

(5) The owners of the park plan to attract at least 250 new jobs to the site.

(6) The owners of the park have entered into a brownfields agreement with the Department of Environment and Natural Resources pursuant to G.S. 130A-310.32 and have provided satisfactory financial assurance for the brownfields agreement.

(7) The creation of the park is for the purpose of featuring clean-energy facilities, laboratories, and companies, thereby spurring economic growth by attracting renewable energy and alternative fuel industries.

(8) The development plan for the park must include at least three renewable energy or alternative fuel facilities.

SECTION 3. Certification. – The owner of a parcel or tract of land that seeks to establish a cleanfields renewable energy demonstration park shall submit to the Secretary of State an application for designation. The Secretary shall examine the application and may request any additional information from the owner of the parcel or tract of land or the Department of Environment and Natural Resources needed to verify that the project meets all of the criteria for designation. If the Secretary determines that the project meets all of the criteria, the Secretary shall make and issue a certificate designating the parcel or tract of land as a cleanfields renewable energy demonstration park to the owner and shall file and record the application and certificate in an appropriate book of record. The parcel or tract of land shall be designated as a cleanfields renewable energy demonstration park on the date the certificate is filed and recorded.

SECTION 4. Renewable energy generation. – The definitions in G.S. 62-133.8 apply to this act. If the Utilities Commission determines that a biomass renewable energy facility located in the cleanfields renewable energy demonstration park is a new renewable energy facility, the Commission shall assign triple credit to any electric power or renewable energy certificates generated at the facility that are purchased by an electric power supplier for the purposes of compliance with G.S. 62-133.8(b) and (c). The triple credit shall apply only to the first 20 megawatts of the biomass renewable energy facility's generation capacity.

SECTION 5. Effective date. – This act is effective when it becomes law.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representatives Tarleton, Harrison, and Underhill (Vice-Chairs) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒Committee Substitute for

SB 886 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT EACH FISHERY MANAGEMENT PLAN MUST INCLUDE A STANDARD TO ENSURE THAT THE PLAN ACHIEVES THE TARGET MORTALITY RATE FOR THE FISHERY OR FISHERIES.

☒ With a favorable report as to House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill and recommendation that the House committee substitute bill be re-referred to the Committee on ENERGY AND ENERGY EFFICIENCY.

(FOR JOURNAL USE ONLY)

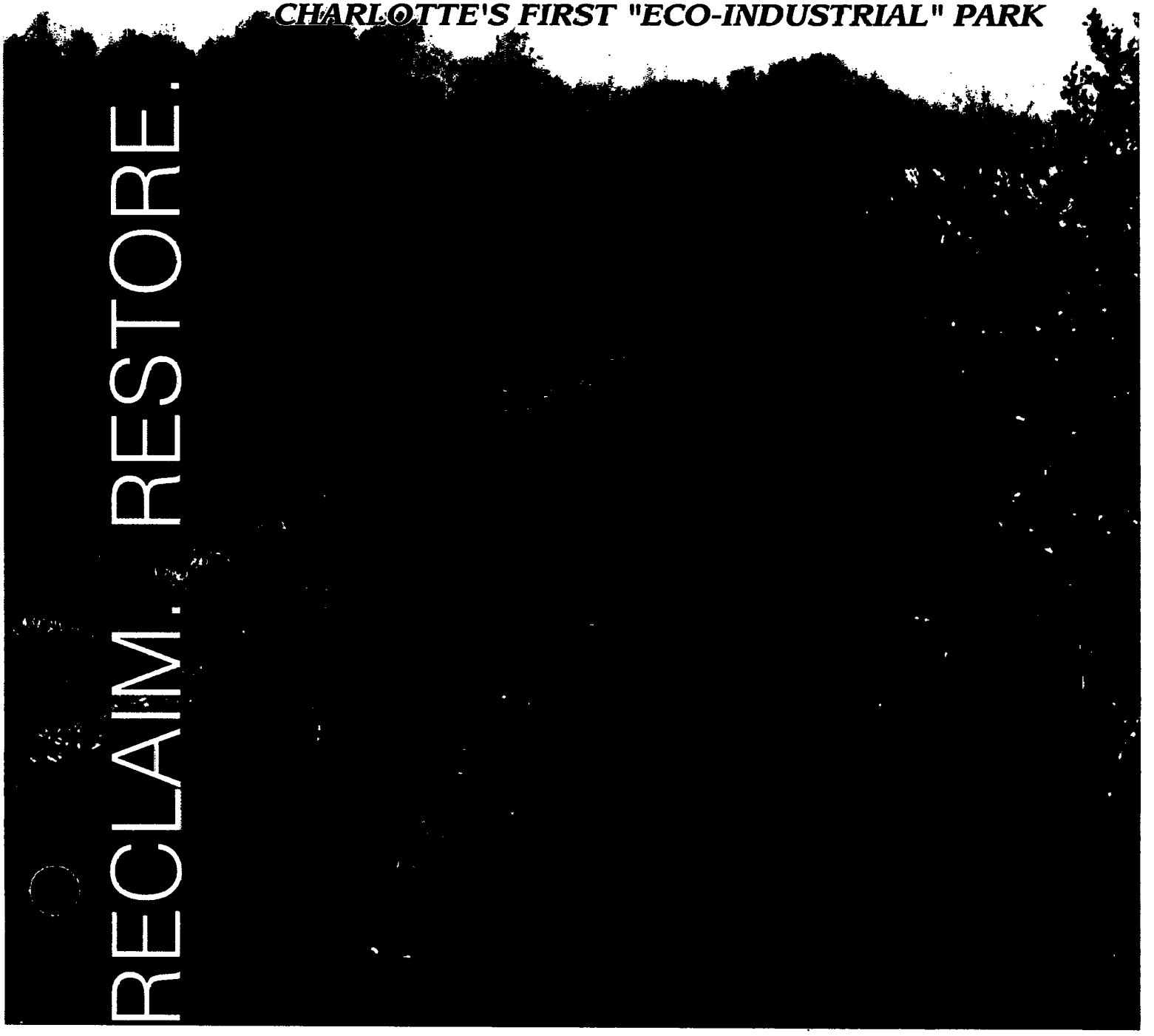
_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

ReVenture Park

CHARLOTTE'S FIRST "ECO-INDUSTRIAL" PARK



1. Executive Summary

ReVenture Park ("ReVenture") is an ambitious plan to Reclaim, Restore, and Reinvent a 667 acre Superfund Site along the Catawba River in Charlotte, NC into the region's first Renewable Energy Eco-Industrial Park. This project will create one of the most dynamic and multi-faceted renewable energy developments currently being contemplated in the United States. The project is poised to become a national model for innovative redevelopment of Brownfield industrial property, and it will serve as a template for other large projects that are similarly situated.

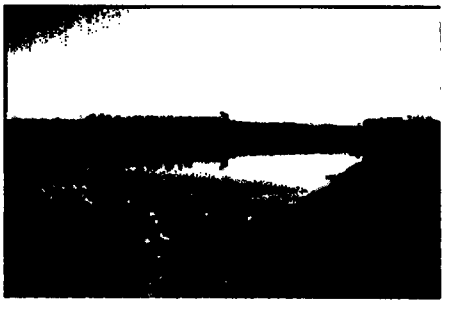
Featuring multiple clean-energy projects, ReVenture will advance the Charlotte region's environmental and economic goals by attracting a myriad of renewable energy and alternative fuel projects. The Eco-Industrial Park is designed to leverage synergies between multiple sustainable components including a Biomass power plant, solar fields, incubator labs, wastewater treatment and reuse, and R&D facilities. When fully development, ReVenture is estimated to generate over $900 million of new investment and create more than 1,100 "green collar" jobs.

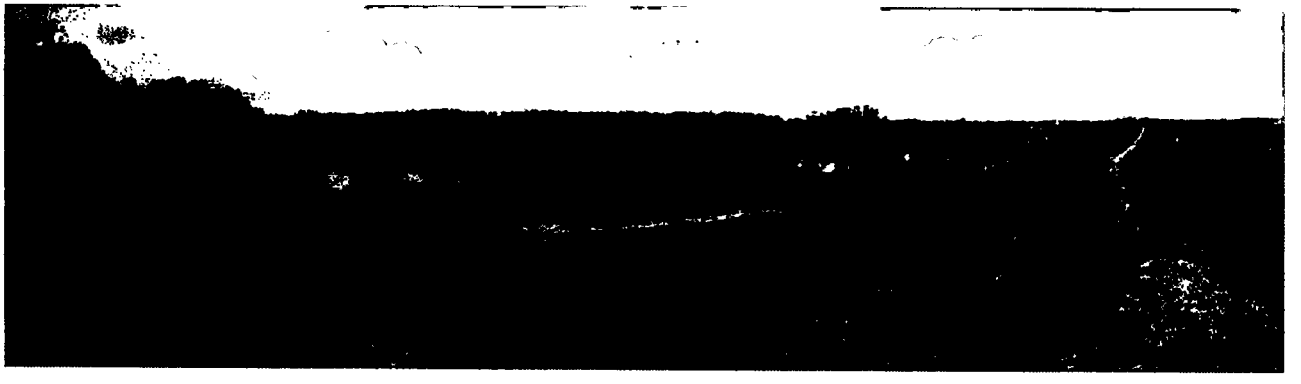
This project substantially advances Charlotte's vision of becoming the "New Energy Capital" and will be a catalyst for attracting renewable energy companies and fostering new technologies. The ReVenture team is currently negotiating the terms on several key projects, including:

- A 44 +/- mega watt Biomass power plant that has the potential to expand to 80 +/- mega watts.
- A 4 +/- mega watt photovoltaic solar field to be developed on a closed 25 acre landfill.
- A platform to research new renewable energy technologies on a large scale.
- A ($300 mm) regional wastewater treatment facility to be operated by Charlotte Mecklenburg Utilities (CMU) that will incorporate multiple "green" design components including transforming the bio-solids into a high BTU, renewable energy resource.
- A partnership with UNC Charlotte to develop a Green Technology research laboratory and Green business incubator.
- The development of a Bio-fuels production facility.
- A transloading and Ethanol mixing operation.
- A propane fleet vehicle conversion facility.
- Office space for green or environmental not-for-profit organizations.
- A new 300,000 +/- square-foot Business Park that will cater to small businesses focused on energy efficiency, renewable energy and environmental technology.
- Coalogix, Inc. expansion.
- A 185 +/- acre conservation easement and trail system along the Long Creek basin that will connect the Carolina Thread Trail to the U.S. National Whitewater Center.

ReVenture's existing infrastructure makes it uniquely positioned for the creation of an Eco-Industrial Park and the metro Charlotte location has excellent interstate access. The site also features an existing 4 MGD waste water treatment facility, over 500,000 SF of existing industrial space, rail access and significant electrical interconnectivity including multiple sub-stations and transmission lines throughout the property. Additionally, there is an existing 360-million gallon containment pond that offers remarkable potential for Biomass production and reuse water supply.

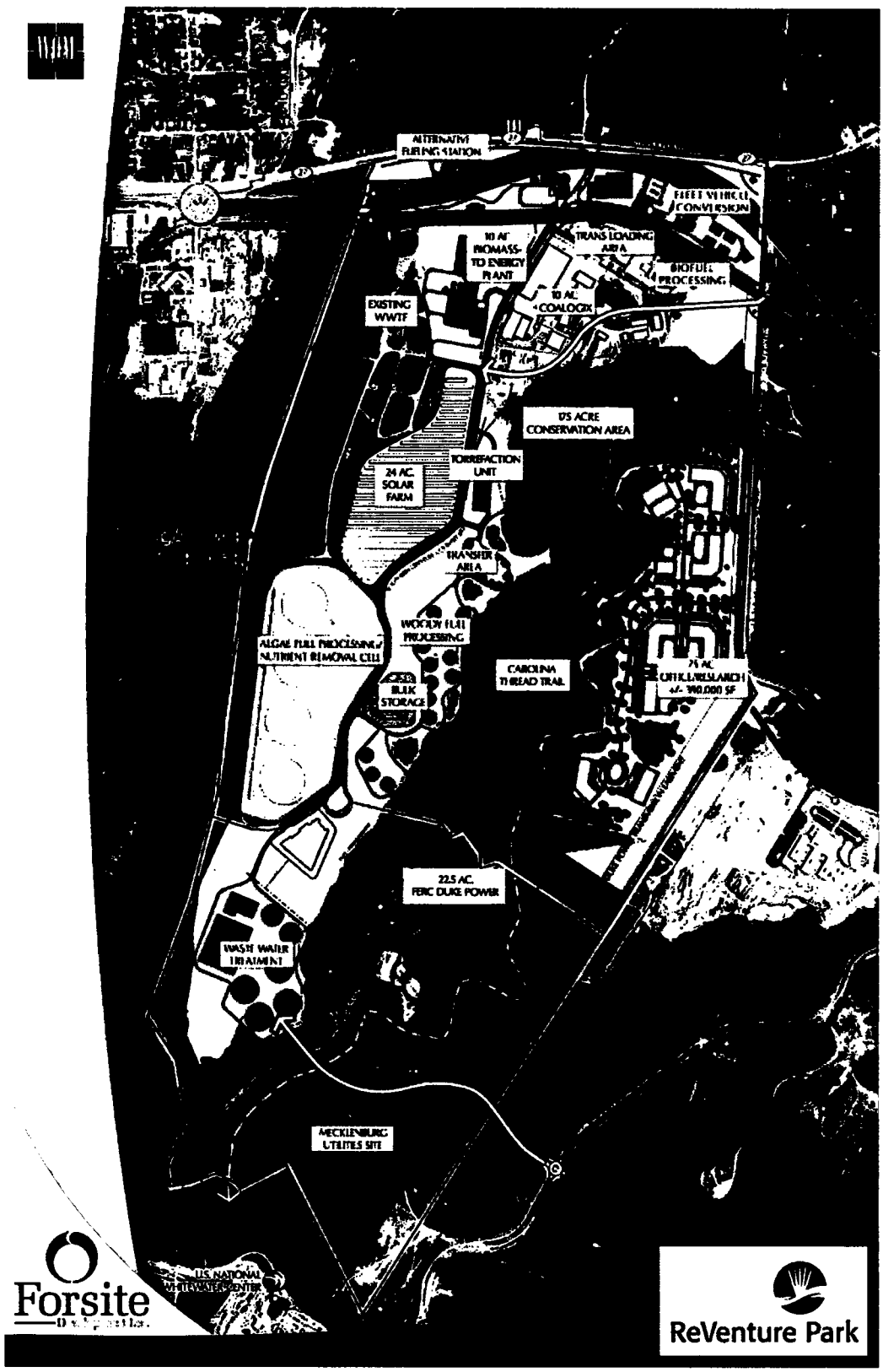
The ReVenture team is pursuing a variety of Federal and State grants, tax credits, stimulus dollars and loan guarantees related to renewable energy and alternative fuels projects. Currently, the project is in the final stages of being de-listed from Superfund with the EPA, and the terms of the Brownfield agreement are being negotiated with the NC Department of Environment Natural Resources. ReVenture Park is slated to be ready for development by late 2010.





Actual site photos

2. ReVenture Park Master Plan



3. Economic Development Impact

ReVenture offers a unique opportunity to create a truly innovative economic development environment that will further establish Charlotte as the "New Energy Capital". The following is a breakdown of the proposed / potential projects, investment and job creation that could be created at ReVenture.

Potential Investment

ReVenture Industry	Projected Investment
Biomass Power Plant	300 M (Phase 1 & 2)
Large-Scale Energy Manufacturer	75
Mid-Scale Energy Manufacturer	55
Energy Efficiency Business Park	55
Waste Water Treatment	250
Solar PV Field – 4 MW	17
Bio-fuel Technologies	30
Research Facilities	30
Bio-solids Fuel Processing	25
Energy + Education Village	15
Environmental Remediation + Water	20
ReVenture Infrastructure	50
Total Projected Investment	**$ 922 Million**

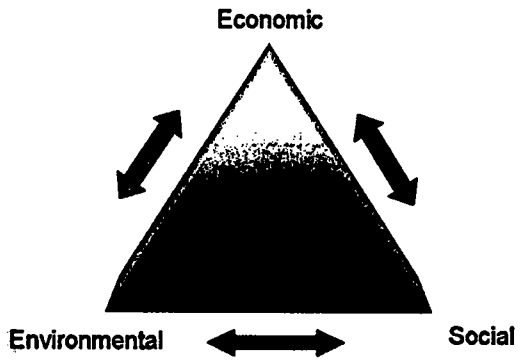
Potential Green Jobs

ReVenture Industry	Projected Employment
Biomass Power Plant	100
Large-Scale Energy Manufacturer	300
Mid-Scale Energy Manufacturer	150
Energy Efficiency Business Park	250
Waste Water Treatment	35
Solar PV Field – 4 MW	4
Bio-fuel Technologies	75
Research Facilities	20
Bio-solids Fuel Processing	40
Energy + Education Village	40
Environmental Remediation + Water	20
Construction - Temporary	800
Total Skilled Employment	**1,034 + 800**

Potential Renewable Opportunities

Water Reuse & Ecology	Alternative Fuels	Renewable Energy
Nutrient removal	Biomass	Biomass to Energy
Process water supply	Bio-solids	Gasification
Growth of biomass	Algae / Duckweed / Plants	Biogas to Energy
Irrigation	Processed MSW	Solar PV
Conservation & Restoration	Wood waste / compost	Solar thermal
Wildlife	Fuel conversion / processing	Wind turbines
Nutrients to fertilizer	Propane	Combined Heat & Power
Nutrients for bioremediation	Batteries	Smart Grid
Phytoremediation	Fuel Cells	Energy Efficiency
Water Quality	Biodiesel / Yellow & Brown Grease	CO2 Sequestration

Triple Bottom Line Diagram



4. Environmental Stewardship

Environmental sensitivity is a core facet of ReVenture's design, which includes a 100 +/- acre conservation easement, connection to the Carolina Thread Trail, critical watershed and wetland area preservation, and enhanced wildlife habitat. When complete, ReVenture Park will set the standard for best practices in environmental stewardship coupled with renewed economic sustainability.

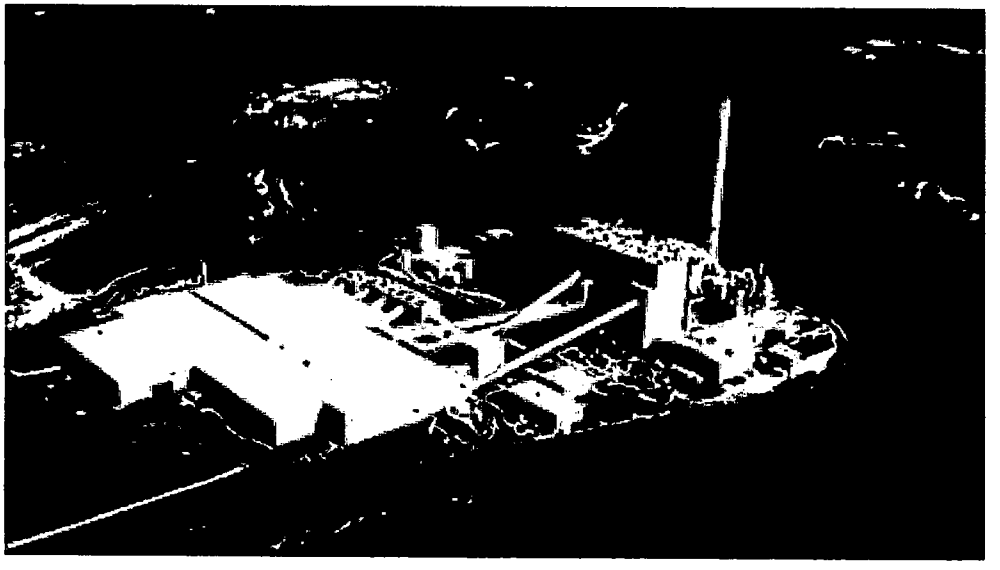
Actual site photos

5. Biomass-to-Energy Proposal

ReVenture will feature multiple renewable energy projects, however, the primary "anchor" project will be a Biomass to Energy (BTE) Facility that will generate 44+/- mega watts of renewable energy. The ReVenture team has secured multiple fuel streams including municipal solid waste, woody biomass and bio-solids. To maximize energy conversion from these fuels, the project will utilize a modified stoker boiler design that will include emission control systems to qualify as a "minor source" air quality construction permit for phase one.

This advanced technology involves a semi-suspension combustion boiler instead of the more traditional mass-burn combustion boiler. As with other solid fuels, it is recognized that by reducing the fuel particulate size (by shredding), the combustion efficiency is increased, which increases energy generation and efficiency. This "shredding" process creates a defined Biomass fuel source know as Resource Derived Fuel (RDF).

Because of the efficient combustion achieved with this technology, production of ash is minimized. The minor amount of ash that is generated can be used in various commercial and renewable applications.



SEMASS Resource Recovery Facility, Rochester, Massachusetts

6. Waste Water Treatment Facility

Long Creek Regional Wastewater Treatment Plant

The other "anchor" project is a (Phase 1 & 2) new waste water treatment facility (WWTF) currently being planned and permitted by Charlotte Mecklenburg Utilities (CMU). CMU plans to construct a regional WWTF (25 MGD) near the Long Creek pumping station on the southern portion of the ReVenture site. ReVenture and CMU are currently negotiating the specifics of a collaborative effort to create synergies between the sites existing infrastructure and the proposed new Biomass facility. These synergies include:

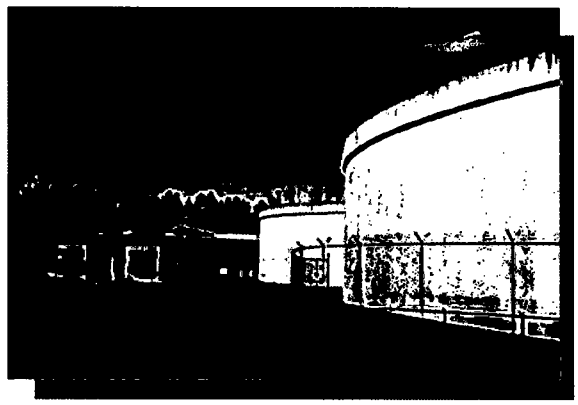
Renewable Energy Production

There are multiple options for renewable energy production associated with the new WWTF, but the greatest potential is to utilize wasted bio-solids (sludge) generated by the facility as a fuel source for the BTE plant. Not only would this option reduce the cost of the plant through reducing sludge digesters, it would also reduce CMU's costs and liability for land disposal of wasted bio-solids (approximately $20M savings). The ReVenture site could also receive imported wastes (sludges, oils & grease, etc.) from other existing CMU facilities and become the regional solution for converting these wastes into beneficial uses to generate renewable energy.

Conjunctive & Consumptive Reuse of Wastewater

Another significant opportunity is to incorporate the reuse of wastewater. Based on our preliminary analysis, a significant volume of the treated wastewater can be reused in the following ways:

- Cooling and process water for the proposed BTE plant and other tenants within the park.
- Irrigation water to be used on-site and for adjacent landowners (Crosland's Whitewater Development, Whitewater Academy school site, USNWC).
- On-site bioremediation via an infiltration gallery to enhance the effectiveness of ReVenture's existing groundwater pumping containment system.



7. Community Involvement Action Plan

The ReVenture team recognizes that "community-buy-in" is a critical component to the project's success. The ReVenture team is currently implementing an extensive Community Involvement Plan that will consist of multiple community meetings designed to ease public opinion of the proposed project. The message is that this is not just a stand alone Biomass project, but a platform for multiple renewable energy projects that will be developed in an environmentally sensitive way. Few, if any, other Biomass projects currently being contemplated can boast a 100 + acre conservation easement, wildlife habitat enhancement/protection, the opportunity to create new jobs and the de-listing of a Federal Superfund site.

ReVenture fully recognizes that treating the community as an afterthought is a fatal flaw; and therefore, the ReVenture team has scheduled a series of community meetings to engage and address the neighbors and other interested parties.

Additionally, ReVenture has been meeting with a variety of environmental groups to gage their potential support or opposition for the project. To date, there has been very positive feedback from such groups, and the ReVenture team feels that such advocates will help inform temper other environmental entities regarding the projects positive attributes.

The first meetings were held very successfully:

Wednesday, January 27, 7 p.m.
Whitewater Academy
Host: Justin Mueller, NW Chapter, Charlotte
11600 White Rapids Rd, Charlotte, 28214

Tuesday, February 2, 7 p.m.
Mt. Holly City Hall
Host: Brian Hough, Mayor of Mt. Holly
400 East Central Ave, Mt. Holly, NC 28120

More than 30 people attended each meeting. The presentation elicited robust Q+A sessions, resulting in an enthusiastic and positive response from the attendees. More Community Meetings will be held in the first and second quarters of 2010.

Community Meetings

8. The ReVenture Team

The ReVenture team consists of over 30 professionals who bring together a robust team of developers, engineers, attorneys, lobbyists, grant writers, project managers, environmental experts, academics and civic leaders who share the same goal of reclaiming, restoring and reinventing our environment and communities.

Forsite
Development Inc.

Forsite Development (Lead Developer)
Forsite Development specializes in the acquisition and redevelopment of corporate surplus industrial properties throughout the Southeast. Forsite has acquired and redeveloped more than 4.2 million square feet of industrial space in the Carolinas, which has attracted over 850 jobs to these respective facilities.

Led by Tom McKittrick, the Forsite team includes personnel specifically versed in the redevelopment, construction management, and leasing of surplus industrial properties. Forsite is managing all aspects of project design, finance, and development and has worked extensively to evolve the project's development plan.

Clariant

Clariant Corporation (Land Seller)
Dating back to 1934, the property was once one of the largest textile dye manufacturing facilities in the U.S. Through a series of acquisitions, Clariant acquired the property in 1983 and with it came a significant environmental liability. Clariant's commitment to the environment neccisated a remediation effort costing in excess of $40 million to address, control and improve the environmental conditions of the land and protect the Catawba River. Clariant is committed to leaving behind a legacy of a responsible corporate stewardship and has helped shape the vision for ReVenture.

Parker Poe

Parker Poe Adams & Bernstein, LLP (Lead Law Firm, Lobbyist and Incentive Procurement)
Parker Poe traces its roots back to 1884, when it was founded by Heriot Clarkson, later a Justice of the NC Supreme Court. Today, the law firm is one of the most sophisticated general corporate and business practices in the southeast US, with 224 attorneys in 4 locations in the two Carolinas. Parker Poe has practice groups in environmental and energy law, eco-business, and governmental relations, as well as multiple additional disciplines. Primary attorneys for ReVenture:

- Tom Griffin – Lead environmental attorney spearheading Superfund de-listing and NC Brownfield Agreement
- Bruce Thompson – Lead lobbyist and incentive procurement
- Anthony Fox – Local political support and coordination
- Henry Campin - Renewable Energy regulatory and policy lead for EPA negotiations and RCRA permit modification

AT Environmental, LLC (Environmental Attorney for Liability Transfer Documents and EPA Negotiations)
As President of AT Environmental, George von Stamwitz is responsible for designing financial tools that fit the precise criteria of the ReVenture business plan. He has designed dozens of risk transfer transactions throughout North America and the United Kingdom.

Withers & Ravenel (Environmental and Civil Engineering)
Withers & Ravenel is a land planning, environmental consulting and engineering firm assisting Forsite with the master plan and specific tactics of ReVenture Park with a focus on renewable energy and continued environmental remediation. Environmental engineer, Chris Neaville, brings 23 years of experience in the assessment and redevelopment of Brownfield sites to the ReVenture Park initiative.

Calor Energy (Environmental Consulting, Grant Writing, Political and Community Support)
Calor Energy Consulting, LLC is sustainability and renewable resources consulting company with expertise in helping organizations to reduce energy costs, increase revenue and enhance relevance. Forsite has engaged Calor to assist with multiple components including strategic planning, energy and environmental intelligence, workforce development, public/private partnerships, political navigating, public relations and grant writing. Contributors to the project:

- Lisa Lee Morgan, Strategic planning, energy and environmental intelligence
- Astrid Chirinos, Public relations and green workforce development
- Rich Deming, Federal, State and Private grant writing

Chirico Huber (Political / Community Support and Coordination)
Former Mecklenburg County Commissioner and commercial real estate broker Edna Chirico of Chirico Huber is working with Calor and Forsite to coordinate key government and community relations initiatives. She has been actively involved in forming and shaping the Catawba River District – a regional initiative designed to expand current green building principles to include water quality and quantity protection. Chirico also serves on the Charlotte Chamber of Commerce Executive Board and Gaston Regional Chamber of Commerce Board of Directors.

NC Solar Center (Biomass Engineering and Proforma Development)
The North Carolina Solar Center began in 1981 with the creation of a solar house built to research and demonstrate the benefits of passive solar, solar water heating, and solar electricity. Since then the Solar Center has grown and expanded. With a full-time staff of over thirty people, NCSC covers all renewable energy areas including wind and biomass.

- Dr. Alex Hobbs – Biomass engineering assumptions and proforma development
- Dr. Keith McAllister – Combined Heat and Power technology validation
- Henry Tshi – Biomass proforma and financial modeling

RTP Environmental Associates (Air Quality Permit Procurement and Expediting)
RTP Environmental Associates, Inc. (RTP) is a full service environmental consulting firm with a highly experienced technical staff of engineers, chemists, meteorologists, computer scientists, and information specialists. Founded in 1978, our years of experience provide us with excellent knowledge of the complex technical and regulatory issues involved in environmental permitting studies.

- Jim Laughlin, Project Manager
- David Keen, Dispersion Modeling
- Gary McCutchen, P.E., Reviewer

UNC CHARLOTTE

UNCC – Ideas Center (Economic and Environmental Impact Analysis)
The UNCC Infrastructure, Design, Environment And Sustainability (IDEAS) Center was founded by Dr. Helene Hilger, Professor of Civil Engineering at the William States Lee College of Engineering. The mission of the IDEAS Center is to foster a region-wide climate of collaboration to create and disseminate knowledge and apply it to yield high economic and energy performance and low environmental impact through structural and environmental solutions that will advance sustainable practices in the region. Dr. Hilger is facilitating multiple areas of collaboration with ReVenture in economic impact research, energy research, and the development of a green business incubator.

corderphilips

Corder Philips (Public Relations and Marketing)
Corder Philips is a leading southeast strategic marketing communications firm. CP is creating a communications blueprint that complements the ReVenture business plan, and creates the coordinated components of brand, print, copy, web and presence. ReVenture consultants:

- Burt Philips, Agency Partner
- Kathy Rowan, Creative Copywriter

Talking Points

Talking Points, LLC (Community Involvement Public Relations)
Scott Carlberg is counseling ReVenture executives and stakeholders to produce targeted, consistent public affairs programming to hit corporate goals, enhance networks and meet important community needs.

WGM

WGM Design, Inc (Architect Firm)
WGM Design is handling the master land planning, site development standards, infrastructure planning, and image designs.

9. Conclusion

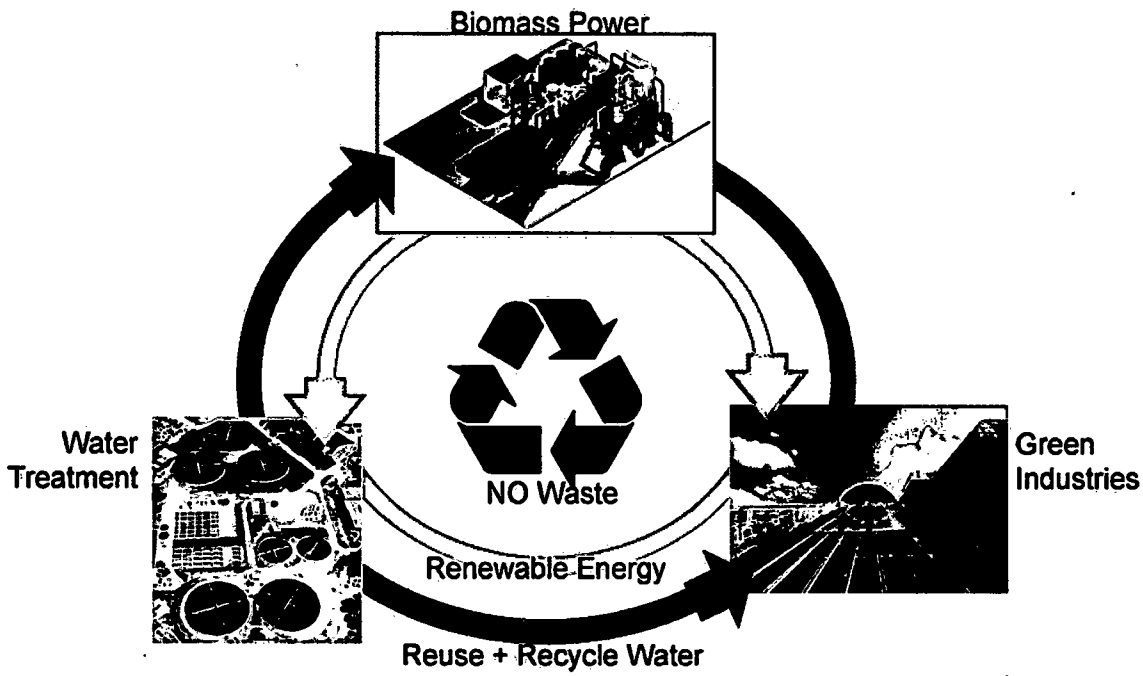
At the Energy Summit on April 6, 2009, Jim Rogers, CEO of Duke Energy, proposed to "leverage the region's growing energy industries into a development and manufacturing hub." ReVenture Park is a tangible manifestation of his vision. ReVenture can help transform a site, a city, a region and further an industry vision. This "Eco-Industrial" redevelopment approach can be duplicated on a multitude of dormant industrial sites scattered throughout the Country. These relics of our country's great manufacturing past can be recycled to breathe new life into communities by creating economic development that produces green jobs, power and fuels.

We believe this concept and ReVenture Park is an "Industry Transformer." Additionally, such bold vision is supported by sound economic reality.

ReVenture offers:

- Economically viable large scale renewable energy production
- Economic development opportunities to create new customers and demand
- The ability to duplicate this re-development concept on other large scale projects
- A clear opportunity to demonstrate Charlotte's stated commitment to the green economy

ReVenture is an opportunity for the private sector, public policy and environmental stewardship to intersect and promote Charlotte's clean energy economy.

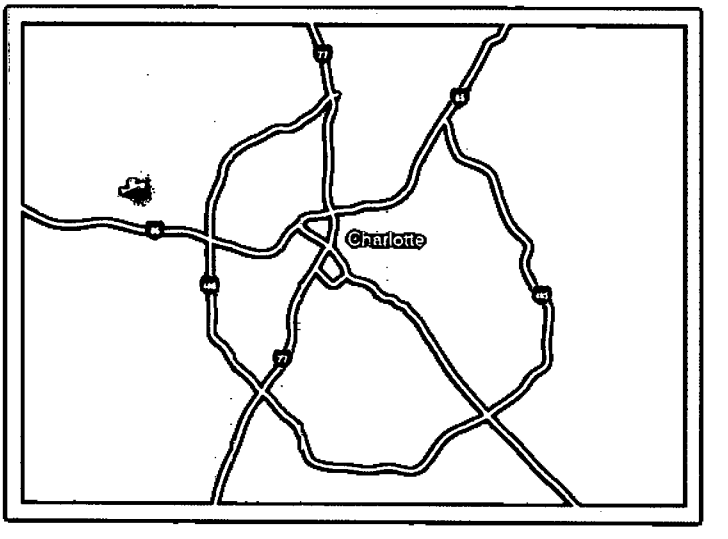


ReVenture Park

ReVenture can help transform a site, a city, a region and further an industry vision. This "Eco-Industrial" redevelopment approach can be duplicated on a multitude of dormant industrial sites scattered throughout the country. These relics of our country's great manufacturing past can be recycled to breathe new life into communities by creating economic development that produces green jobs, power, and fuels.

"ReVenture is a unique opportunity for private investment, public policy and environmental stewardship to intersect and promote Charlotte's clean energy economy."

Tom McKittrick
President
Forsite Development, Inc.



WHAT IS REVENTURE?

- Largest section of unutilized I-2 industrial land in Mecklenburg County (667 acres)
- Currently listed as a Federal Superfund site
- Property is being de-listed from Superfund and enrolled into the NC Brownfields Program
- The site will be recycled into an "Eco Industrial Park"
  - otential to create 1000+ green jobs and over $900M in ew investment
- A national model for innovative redevelopment

TO LEARN MORE ABOUT REVENTURE PARK CONTACT:

Tom McKittrick
President
Forsite Development, Inc.
704-364-9100
tom@forsiteinc.com

www.forsiteinc.com

Forsite
Development Inc.

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

June 29, 2010

SPEAKERS: PLEASE SIGN IN BELOW

Name & Title	Representing (Agency/Company)	Bill #	Support/ Oppose
Tom BEAN	NRWF	S 1259	Oppose

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

June 29, 2010

SPEAKERS: PLEASE SIGN IN BELOW

Name & Title	Representing (Agency/Company)	Bill #	Support/ Oppose
Margaret Hatzell	Environment North Carolina	S1259	
Molly Diggins	Sierra Club	S886	
BRUCE THOMPSON TOM McCATHRAN	REVENTURE PARK	886	

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

June 29, 2010

SPEAKERS: PLEASE SIGN IN BELOW

Name & Title	Representing (Agency/Company)	Bill #	Support/ Oppose
Robin Smith	DENR	SB 1259	
FRANCIS M. NEVILS	DENR-DLR	SB 1259	

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 29, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
ADRIENE WEAVER	DWQ
Carl Markengen	Sierra Club
Hassan Kam	NCCN
Kimberlie Rankin	Sierra Club
Francis M. Nevils II	DENR - DLR
James Simons	DENR - DLR
Peter Gehred	CCNC
Margaret Hartzell	Environment North Carolina
Maria Riccio	CCNC
Janie Hauser	DENR
Robin Smith	DENR

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 29, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Coleen H. Sullins	DENR / DWQ
Jeff Manning	DENR DWQ
Bruce Thomson	Parker Poe
Tom McCulloch.	Forisk Development.
Chris Neaville	Withers & Ravenel
Tracy Kimbrell	Parker Poe
Allison Waller	Charlotte Chamber
Matthew Eisley	Smith Anderson
Grady McCallie	NC Conservation Network.
Peter Raabe	American Rivers
Tom Beason	NCWF, NCEDF, NC SEED

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — **Name of Committee**

June 29, 2010 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Bode	BCS
Elizabeth Bise	DENR
John McAlister	NC Chamber
Eliz Ouzts	Environment NC
Tara Steinmetz	Environment NC

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 29, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jay Stem	NCAA
DAVID BARNES	Pogue Spruill
Caman Hardy	Electric Citizens of NC
Sam Walker	Rep Kelly Alexander
Molly D. Diggins	Sierra Club
Sage Boyd	intern – Rep Martin
Drew Ball	Sierra Club
Mike Wal	NCRPA
Jonah Harrison	Rep. Luebke
Henry Jones	Attorney - Raleigh
Paul Sherman	NCFB

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 29, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ashley Jones	ajones@bbfpublicaffairs.com
Lisa Martin	NC Home Builders
Rick Zechini	NC Assoc of Realtors
Kathy Hawkins	Duke Energy
Ruth Hamm	Wegmans
Preston Howard	NCIC
George Everett	Duke Energy
John Goodman	NC Chamber
Scott Gardner	Duke Energy
Patrick Buffkin	NCAEC
Jay Rouse	"

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — June 29, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
ZEB ALLEY	PROGRESS ENERGY
GERRY COHEN	BILL DOTTH
[illegible]	NCIC
Andrew Cagle	DLC + Assoc.
[illegible]	NCGA
Kerr Swearingen	SAS

HOUSE PAGES

ENVIRONMENT AND NATURAL

NAME OF COMMITTEE RESOURCES DATE 06-29-10

1. Name: PAULA GUILER 6. CHAD GRAY

County: MECKLENBURG UNION

Sponsor: REP. KILLIAN REP. GOODWIN

2. Name: CHARLOTTE LEADEM 7. MIKALAH SHAW

County: ORANGE DURHAM

Sponsor: SPEAKER HACKNEY REP. HALL

3. Name: VIR DESAI (Vira De-si)

County: WAKE

Sponsor: REP. WEISS

4. Name: MARY GRAYSON BROOK

County: WAKE

Sponsor: REP. MARTIN

5. Name: STEPHEN JACKSON

County: NEW HANOVER

Sponsor: REP. JUSTICE

SGT-AT-ARM

1. Name: * FRED HINES

2. Name: CARLTON ADAMS

3. Name: EARL COKER

4. Name: FRANK PREVO

5. ___: JAMES WORTH

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

JULY 1, 2010

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Thursday, July 1, 2010, in room 643 of the Legislative Office Building. Representative Alice Underhill presided. Members present were: Representatives Gillespie, Harrison, Justice, and Tarleton, Vice-Chairs; Representatives Blackwood, Floyd, Gibson, Haire, Luebke, Martin, May, McComas, McElraft, Samuelson, West, and Womble.

Representative Underhill called the meeting to order at 12:05 p.m. She began by introducing the pages for the day and the sergeant-at-arms staff assigned to the meeting (list attached).

The sole item on the agenda was House Bill 1766 – A BILL TO BE ENTITLED AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS TO (1) PROVIDE THAT THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES MAY DESIGNATE MULTIPLE MEMBERS TO SERVE AS COCHAIRS OF THE ENVIRONMENTAL REVIEW COMMISSION; (2) REPEAL THE REQUIREMENT THAT REMEDIAL ACTION PLANS MUST BE RECORDED IN THE REGISTER OF DEEDS OFFICE AND MODIFY THE REQUIREMENT THAT REMEDIAL ACTION PLANS MUST BE PLACED IN EACH PUBLIC LIBRARY IN THE COUNTY; (3) REESTABLISH THE SURFACE WATER IDENTIFICATION TRAINING AND CERTIFICATION PROGRAM AS A COMPONENT OF THE RIPARIAN BUFFER PROTECTION PROGRAM; (4) AMEND CIVIL PENALTIES FOR CERTAIN AIR QUALITY VIOLATIONS TO CONFORM WITH CHANGES MADE IN S.L. 2007-296; (5) AMEND REPORTING REQUIREMENTS FOR SMALL WASTEWATER SYSTEMS; (6) AMEND THE ENFORCEMENT AUTHORITY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES UNDER THE DROUGHT MANAGEMENT PREPAREDNESS AND RESPONSE ACT; AND (7) PROVIDE THAT THE PROHIBITION ON ANY NEW OR INCREASED NUTRIENT LOADING ALLOCATION APPLIES TO IMPAIRED DRINKING WATER SUPPLY RESERVOIRS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION. Representative Gibson was recognized to present the bill. Upon a motion by Representative Justice, a proposed committee substitute was placed before the committee for consideration. Jennifer Mundt, Committee Analyst, was called upon to outline the various provisions of the PCS. A discussion by committee members followed. Representative Gillespie sent forth amendment #1 (copy attached). This amendment was unanimously approved by the members. Representative McComas was then recognized to present amendment #2 (copy attached). Several speakers expressed opinions regarding the amendment. They included Tyler Newman with the Wilmington Home Builders Association, Peter Raube with American Rivers, and Lisa Martin with the North Caorlina Homebuilders Association. Questions from committee members were fielded by Representative McComas before the amendment was unanimously approved by the committee. At that time, Representative Haire sent forth amendment #3 (copy attached), which received unanimous approval from committee members. Representative Tarleton made a motion

for a favorable report as to the committee substitute bill, to incorporate the amendments, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be referred to the Committee on Finance.

With no further business to come before the committee, the meeting then adjourned at 12:45 p.m.

Respectfully submitted,

Representative Alice Underhill, Chair

Shara Graham, Committee Assistant

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE

MEETING

July 1, 2010
12:00 NOON
Room 643 LOB

Representative Underhill, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

HB 1766 - Amend Environmental Laws 2010
Primary Sponsor: Rep. Gibson

ADJOURNMENT

H

HOUSE BILL 1766

Short Title:	Amend Environmental Laws 2010.	(Public)
Sponsors:	Representatives Gibson; Harrison, Hughes, and Tarleton.	
Referred to:	Environment and Natural Resources, if favorable, Finance.	

May 18, 2010

A BILL TO BE ENTITLED

AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS TO (1) PROVIDE THAT THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES MAY DESIGNATE MULTIPLE MEMBERS TO SERVE AS COCHAIRS OF THE ENVIRONMENTAL REVIEW COMMISSION; (2) REPEAL THE REQUIREMENT THAT REMEDIAL ACTION PLANS MUST BE RECORDED IN THE REGISTER OF DEEDS OFFICE AND MODIFY THE REQUIREMENT THAT REMEDIAL ACTION PLANS MUST BE PLACED IN EACH PUBLIC LIBRARY IN THE COUNTY; (3) REESTABLISH THE SURFACE WATER IDENTIFICATION TRAINING AND CERTIFICATION PROGRAM AS A COMPONENT OF THE RIPARIAN BUFFER PROTECTION PROGRAM; (4) AMEND CIVIL PENALTIES FOR CERTAIN AIR QUALITY VIOLATIONS TO CONFORM WITH CHANGES MADE IN S.L. 2007-296; (5) AMEND REPORTING REQUIREMENTS FOR SMALL WASTEWATER SYSTEMS; (6) AMEND THE ENFORCEMENT AUTHORITY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES UNDER THE DROUGHT MANAGEMENT PREPAREDNESS AND RESPONSE ACT; AND (7) PROVIDE THAT THE PROHIBITION ON ANY NEW OR INCREASED NUTRIENT LOADING ALLOCATION APPLIES TO IMPAIRED DRINKING WATER SUPPLY RESERVOIRS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 120-70.42(b) reads as rewritten:

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

SECTION 2. G.S. 130A-310.4(b) reads as rewritten:

"(b) Before approving any remedial action plan, the Secretary shall make copies of the proposed plan available for inspection as follows:

(1) A copy of the plan shall be provided to the local health director.

~~(2) A copy of the proposed plan shall be filed with the register of deeds in the county or counties in which the site is located.~~

(3) A copy of the plan shall be provided to the ~~each~~ public library located in closest proximity to the site in the county or counties in which the site is located.

(4) The Secretary may place copies of the plan in other locations so as to assure the availability thereof to the public.

In addition, copies of the plan shall be available for inspection and copying at cost by the public during regular business hours in the offices of the agency within the Department with responsibility for the administration of the remedial action program."

SECTION 3.(a) Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-214.25A. Riparian Buffer Protection Program: Surface Water Identification Training and Certification Program.**

(a) The Division of Water Quality of the Department shall develop a program to train and certify individuals to determine the presence of surface waters that would require the application of rules adopted by the Commission for the protection of riparian buffers. The Division may train and certify employees of the Division as determined by the Director of the Division of Water Quality; employees of units of local government to whom responsibility for the implementation and enforcement of the riparian buffer protection rules is delegated pursuant to G.S. 143-214.23; and Registered Foresters under Chapter 89B of the General Statutes who are employees of the Division of Forest Resources of the Department as determined by the Director of the Division of Forest Resources. The Director of the Division of Water Quality may review the determinations made by individuals who are certified pursuant to this section, may override a determination made by an individual certified under this section, and, if the Director of the Division of Water Quality determines that an individual is failing to make correct determinations, revoke the certification of that individual.

(b) The Division of Water Quality shall develop standard forms for use in making and reporting determinations. Each individual who is certified to make determinations under this section shall prepare a written report of each determination and shall submit the report to the agency that employs the individual. Each agency shall maintain reports of determinations made by its employees, shall forward a copy of each report to the Director of the Division of Water Quality, and shall maintain these reports and all other records related to determinations so that they will be readily accessible to the public."

SECTION 3.(b) In implementing the Surface Water Identification Training and Certification Program established by G.S. 143-214.25A, as enacted by Section 3(a) of this act, the Division of Water Quality of the Department of Environment and Natural Resources shall give priority to training and certifying the most highly qualified and experienced personnel in each agency. The Division of Water Quality shall evaluate the effectiveness of the Surface Water Identification Training and Certification Program and shall submit an annual report of its findings and recommendations, if any, to the Environmental Review Commission on or before October 1 of each year. The Division of Water Quality shall submit the first report required by this section on or before October 1, 2011.

SECTION 3.(c) This section shall not be construed to obligate the General Assembly to appropriate any funds to implement the provisions of this act. Every agency to which this section applies shall implement the provisions of this act with funds otherwise appropriated or available to the agency.

SECTION 4. G.S. 143-215.112(d)(1a) reads as rewritten:

"(1a) Each governing body, or its authorized agent, shall have the power to assess civil penalties under G.S. 143-215.114A. Any person assessed shall be notified of the assessment by registered or certified mail, and the notice shall specify the reasons for the assessment. If the person assessed fails to pay the amount of the assessment to the governing body or its authorized agent within 30 days after receipt of notice, or such longer period not to exceed 180 days as the governing body or its authorized agent may specify, the governing body may institute a civil action in the superior court of the county in which the violation occurred, to recover the amount of the assessment. If any action or failure to act for which a penalty may be

assessed under this section is continuous, the governing body or its authorized agent may assess a penalty not to exceed ~~ten thousand dollars ($10,000)~~ twenty-five thousand dollars ($25,000) per day for so long as the violation continues. In determining the amount of the penalty, the governing body or its authorized agent shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, and the amount of money the violator saved by not having made the necessary expenditures to comply with the appropriate pollution control requirements."

SECTION 5. G.S. 143-215.1C(a) reads as rewritten:

"(a) Report to Wastewater System Customers. – The owner or operator of any wastewater collection or treatment works, the operation of which is primarily to collect or treat municipal or domestic wastewater and for which a permit is issued under this ~~Part,~~ Part and having an average annual flow greater than 200,000 gallons per day, shall provide to the users or customers of the collection system or treatment works and to the Department an annual report that summarizes the performance of the collection system or treatment works and the extent to which the collection system or treatment works has violated the permit or federal or State laws, regulations, or rules related to the protection of water quality. The report shall be prepared on either a calendar or fiscal year basis and shall be provided no later than 60 days after the end of the calendar or fiscal year."

SECTION 6. G.S. 143-355.6 reads as rewritten:

"**§ 143-355.6. Enforcement.**

(a) The Secretary may assess a civil penalty of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) against any person who:

(1) Fails to report water use or other information required under G.S. 143-355(k).

(2) Fails to act in accordance with the terms, conditions, or requirements of an order issued by the Secretary under G.S. 143-355.3.

(3) Violates any provision of this Article or any rule adopted by the Commission, the Department, or the Secretary implementing this Article.

(b) For each willful action or failure to act for which a penalty may be assessed under this section, the Secretary may consider each day the action or inaction continues after notice is given of the violation as a separate violation. A separate penalty may be assessed for each separate violation.

(c) The Secretary may assess a civil penalty of not more than ten thousand dollars ($10,000) per month against a unit of local government that provides public water service or a large community water system that fails to implement the water conservation measures set out in the water shortage response plan approved by the Department under G.S. 143-355.2, measures required by the Department under subsections (b) and (d) of G.S. 143-355.2, or the default measures required under rules adopted by the Commission under S.L. 2002-167. ~~The Secretary may remit a civil penalty based on the factors set out in G.S. 143B-282.1(c)(1).~~

(c1) The amount of the civil penalty shall be based on the factors set out in G.S. 143B-282.1(b). The procedures set out in G.S. 143B-282.1 shall apply to civil penalty assessments that are presented to the Commission for final agency decision.

(c2) Requests for remission of civil penalties shall be filed with the Secretary. Remission requests shall not be considered unless made within 30 days of receipt of the notice of assessment. Remission requests must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B of the General Statutes and a stipulation of the facts on which the assessment was based. Consistent with the limitations in G.S. 143B-282.1(c) and (d), remission requests may be resolved by the Secretary and the violator. If the Secretary and the violator are unable to resolve the request, the Secretary shall deliver remission requests and the

Secretary's recommended action to the Committee on Civil Penalty Remissions of the Commission appointed pursuant to G.S. 143B-282.1(c).

(c3) If any civil penalty has not been paid within 30 days after the notice of assessment has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or in which the violator's principal place of business is located to recover the amount of the assessment, unless the violator contests the assessment as provided in subsection (e) of this section, or requests remission of the assessment in whole or in part as provided in subsection (c2) of this section. If any civil penalty has not been paid within 30 days after the final agency decision or court order has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or in which the violator's principal place of business is located to recover the amount of the assessment.

(d) The violation of emergency water conservation rules adopted by the Secretary pursuant to G.S. 143-355.3(b) is a Class 1 misdemeanor.

(e) The Secretary shall notify any person assessed a civil penalty of the assessment and the specific reasons for the assessment by registered or certified mail or by any means authorized by G.S. 1A-1, Rule 4. Contested case petitions shall be filed within 30 days of receipt of the notice of assessment.

(f) The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

SECTION 7. Section 4 of S.L. 2005-190, as amended by Section 31 of S.L. 2006-259, reads as rewritten:

"**SECTION 4. Other drinking water supply reservoirs.** – The Environmental Management Commission shall not make any new or increased nutrient loading allocation to any person who is required to obtain a permit under G.S. 143-215 for an individual wastewater discharge directly or indirectly into any impaired drinking water supply reservoir for which the Division of Water Quality of the Department of Environment and Natural Resources has prepared or updated a calibrated nutrient response model since 1 July 2002 until permanent rules adopted by the Commission to implement the nutrient management strategy for that reservoir become effective. The Commission shall report its progress in developing and implementing nutrient management strategies for reservoirs to which this section applies to the Environmental Review Commission by 1 April of each year beginning 1 April 2006."

SECTION 8. Section 4 of this act becomes effective October 1, 2010, and applies to a violation that occurs on or after that date. All other sections of this act are effective when the act becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1766
PROPOSED COMMITTEE SUBSTITUTE H1766-CSTF-4 [v.10]

7/1/2010 9:55:31 AM

Short Title: Amend Environmental Laws 2010. (Public)

Sponsors:

Referred to:

May 18, 2010

A BILL TO BE ENTITLED

AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS TO: (1) CHANGE THE LOCATION OF THE HORIZONTAL CONTROL MONUMENT FILES FOR PLAT AND SUBDIVISION MAPPING REQUIREMENTS; (2) PROVIDE THAT THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES MAY DESIGNATE MULTIPLE MEMBERS TO SERVE AS COCHAIRS OF THE ENVIRONMENTAL REVIEW COMMISSION; (3) REPEAL THE REQUIREMENT THAT REMEDIAL ACTION PLANS BE RECORDED IN THE REGISTER OF DEEDS OFFICE AND MODIFY THE REQUIREMENT THAT REMEDIAL ACTION PLANS BE PLACED IN EACH PUBLIC LIBRARY IN THE COUNTY; (4) REESTABLISH THE SURFACE WATER IDENTIFICATION TRAINING AND CERTIFICATION PROGRAM AS A COMPONENT OF THE RIPARIAN BUFFER PROTECTION PROGRAM; (5) AMEND THE CUSTOMER REPORTING REQUIREMENTS FOR SMALL WASTEWATER SYSTEMS; (6) AMEND CIVIL PENALTIES FOR CERTAIN AIR QUALITY VIOLATIONS TO CONFORM WITH CHANGES MADE IN S.L. 2007-296; (7) CHANGE THE NAME OF THE NORTH CAROLINA NATIONAL PARK, PARKWAY AND FORESTS DEVELOPMENT COUNCIL TO THE WESTERN NORTH CAROLINA PUBLIC LANDS COUNCIL; (8) CLARIFY THE STANDARDS FOR QUALIFICATION OF VOLUNTARY WATER CONSERVATION AND WATER USE EFFICIENCY PROGRAMS; (9) AMEND THE ENFORCEMENT AUTHORITY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES UNDER THE DROUGHT MANAGEMENT PREPAREDNESS AND RESPONSE ACT; (10) AMEND DESIGNATION OF THE MEMBER OF THE SEDIMENTATION CONTROL COMMISSION REPRESENTING A NORTH CAROLINA PUBLIC UTILITY COMPANY; (11) AMEND THE NOTICE REQUIREMENTS FOR CITIES, COUNTIES, SANITARY DISTRICTS, AND WATER AND SEWER AUTHORITIES WHEN IMPOSING OR INCREASING CERTAIN FEES OR CERTAIN CHARGES; (12) PROVIDE THAT THE PROHIBITION ON ANY NEW OR INCREASED NUTRIENT LOADING ALLOCATION APPLIES TO IMPAIRED DRINKING WATER SUPPLY RESERVOIRS; (13) ESTABLISH THE NORTH CAROLINA WOOD AND CROP BIOMASS STRATEGIC WORKING GROUP; (14) DIRECT CERTAIN STATE AGENCIES TO REVIEW THEIR PLANNING AND REGULATORY PROGRAMS AND RECOMMEND WHETHER THOSE PROGRAMS SHOULD INCLUDE

CONSIDERATION OF THE IMPACTS OF GLOBAL CLIMATE CHANGE; (15) REQUIRE ALL PUBLIC AGENCIES TO RECYCLE ALL SPENT FLUORESCENT LIGHTS AND MERCURY THERMOSTATS; REQUIRE THE REMOVAL OF ALL FLUORESCENT LIGHTS AND MERCURY THERMOSTATS FROM BUILDINGS PRIOR TO DEMOLITION; AND BAN MERCURY-CONTAINING PRODUCTS FROM UNLINED LANDFILLS; AND (16) AUTHORIZE THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY THE PENALTIES APPLICABLE TO VIOLATIONS OF G.S. 130A-309.10 (PROHIBITED ACTS RELATED TO PACKAGING; CODED LABELING OF PLASTIC CONTAINERS REQUIRED; DISPOSAL OF CERTAIN SOLID WASTES IN LANDFILLS OR BY INCINERATION PROHIBITED).

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 47-30(f)(9) reads as rewritten:

"(9) Where the plat is the result of a survey, one or more corners shall, by a system of azimuths or courses and distances, be accurately tied to and coordinated with a horizontal control monument of some United States or State Agency survey system, such as the North Carolina Geodetic Survey where the monument is within 2,000 feet of the subject property. Where the North Carolina Grid System coordinates of the monument are on file in the ~~North Carolina Office of State Budget and Management,~~ North Carolina Geodetic Survey Section in the Division of Land Resources of the Department of Environment and Natural Resources, the coordinates of both the referenced corner and the monuments used shall be shown in X (easting) and Y (northing) coordinates on the plat. The coordinates shall be identified as based on "NAD 83," indicating North American Datum of 1983, or as "NAD 27," indicating North American Datum of 1927. The tie lines to the monuments shall also be sufficient to establish true north or grid north bearings for the plat if the monuments exist in pairs. Within a previously recorded subdivision that has been tied to grid control, control monuments within the subdivision may be used in lieu of additional ties to grid control. Within a previously recorded subdivision that has not been tied to grid control, if horizontal control monuments are available within 2,000 feet, the above requirements shall be met; but in the interest of bearing consistency with previously recorded plats, existing bearing control should be used where practical. In the absence of ~~Grid Control,~~ grid control, other appropriate natural monuments or landmarks shall be used. In all cases, the tie lines shall be sufficient to accurately reproduce the subject lands from the control or reference points used."

SECTION 2. G.S. 120-70.42(b) reads as rewritten:

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

SECTION 3. G.S. 130A-310.4(b) reads as rewritten:

"(b) Before approving any remedial action plan, the Secretary shall make copies of the proposed plan available for inspection as follows:

(1) A copy of the plan shall be provided to the local health director.

~~(2) A copy of the proposed plan shall be filed with the register of deeds in the county or counties in which the site is located.~~

(3) A copy of the plan shall be provided to the ~~each~~ public library located in closest proximity to the site in the county or counties in which the site is located.

(4) The Secretary may place copies of the plan in other locations so as to assure the availability thereof to the public.

In addition, copies of the plan shall be available for inspection and copying at cost by the public during regular business hours in the offices of the agency within the Department with responsibility for the administration of the remedial action program."

SECTION 4.(a) Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-214.25A. Riparian Buffer Protection Program: Surface Water Identification Training and Certification Program.**

(a) The Division of Water Quality of the Department shall develop a program to train and certify individuals to determine the presence of surface waters that would require the application of rules adopted by the Commission for the protection of riparian buffers. The Division may train and certify employees of the Division as determined by the Director of the Division of Water Quality; employees of units of local government to whom responsibility for the implementation and enforcement of the riparian buffer protection rules is delegated pursuant to G.S. 143-214.23; and Registered Foresters under Chapter 89B of the General Statutes who are employees of the Division of Forest Resources of the Department as determined by the Director of the Division of Forest Resources. The Director of the Division of Water Quality may review the determinations made by individuals who are certified pursuant to this section, may override a determination made by an individual certified under this section, and, if the Director of the Division of Water Quality determines that an individual is failing to make correct determinations, revoke the certification of that individual.

(b) The Division of Water Quality shall develop standard forms for use in making and reporting determinations. Each individual who is certified to make determinations under this section shall prepare a written report of each determination and shall submit the report to the agency that employs the individual. Each agency shall maintain reports of determinations made by its employees, shall forward a copy of each report to the Director of the Division of Water Quality, and shall maintain these reports and all other records related to determinations so that they will be readily accessible to the public."

SECTION 4.(b) In implementing the Surface Water Identification Training and Certification Program established by G.S. 143-214.25A, as enacted by Section 4(a) of this act, the Division of Water Quality of the Department of Environment and Natural Resources shall give priority to training and certifying the most highly qualified and experienced personnel in each agency. The Division of Water Quality shall evaluate the effectiveness of the Surface Water Identification Training and Certification Program and shall submit an annual report of its findings and recommendations, if any, to the Environmental Review Commission on or before October 1 of each year. The Division of Water Quality shall submit the first report required by this section on or before October 1, 2011.

SECTION 4.(c) Sections 4.(a), 4.(b), and 4.(c) of this act shall not be construed to obligate the General Assembly to appropriate any funds to implement the provisions of this act. Every agency to which this section applies shall implement the provisions of this act with funds otherwise appropriated or available to the agency.

SECTION 5. G.S. 143-215.1C(a) reads as rewritten:

"(a) Report to Wastewater System Customers. – The owner or operator of any wastewater collection or treatment works, the operation of which is primarily to collect or treat municipal or domestic wastewater and for which a permit is issued under this ~~Part,~~ Part and having an average annual flow greater than 200,000 gallons per day, shall provide to the users or customers of the collection system or treatment works and to the Department an annual report that summarizes the performance of the collection system or treatment works and the extent to which the collection system or treatment works has violated the permit or federal or State laws, regulations, or rules related to the protection of water quality. The report shall be

prepared on either a calendar or fiscal year basis and shall be provided no later than 60 days after the end of the calendar or fiscal year."

SECTION 6. G.S. 143-215.112(d)(1a) reads as rewritten:

"(1a) Each governing body, or its authorized agent, shall have the power to assess civil penalties under G.S. 143-215.114A. Any person assessed shall be notified of the assessment by registered or certified mail, and the notice shall specify the reasons for the assessment. If the person assessed fails to pay the amount of the assessment to the governing body or its authorized agent within 30 days after receipt of notice, or such longer period not to exceed 180 days as the governing body or its authorized agent may specify, the governing body may institute a civil action in the superior court of the county in which the violation occurred, to recover the amount of the assessment. If any action or failure to act for which a penalty may be assessed under this section is continuous, the governing body or its authorized agent may assess a penalty not to exceed ~~ten thousand dollars ($10,000)~~ twenty-five thousand dollars ($25,000) per day for so long as the violation continues. In determining the amount of the penalty, the governing body or its authorized agent shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, and the amount of money the violator saved by not having made the necessary expenditures to comply with the appropriate pollution control requirements."

SECTION 7.(a) The title of Part 17A of Article 7 of Chapter 143B of the General Statutes reads as rewritten:

"Part 17A. ~~North Carolina National Park, Parkway and Forests Development Council.~~ Western North Carolina Public Lands Council."

SECTION 7.(b) G.S. 143B-324.1 reads as rewritten:

"**§ 143B-324.1. ~~North Carolina National Park, Parkway and Forests Development Council;~~ Western North Carolina Public Lands Council creation; powers; duties.**

The ~~North Carolina National Park, Parkway and Forests Development Council~~ Western North Carolina Public Lands Council is created within the Department of Environment and Natural Resources. The Council shall:"

SECTION 7.(c) G.S. 143B-324.2 reads as rewritten:

"**§ 143B-324.2. ~~North Carolina National Park, Parkway and Forests Development Council~~ Western North Carolina Public Lands Council members; selection; officers; removal; compensation; quorum; services.**

(a) Members; selection; and terms of service. – The ~~North Carolina National Park, Parkway and Forests Development Council~~ Western North Carolina Public Lands Council within the Department of Environment and Natural Resources shall consist of seven members appointed by the Governor. The composition of the Council shall be as follows:

(1) ~~one~~ One member shall be a resident of Buncombe ~~County,~~ County.

(2) ~~one~~ One member shall be a resident of Haywood ~~County,~~ County.

(3) ~~one~~ One member shall be a resident of Jackson ~~County,~~ County.

(4) ~~one~~ One member shall be a resident of Swain ~~County,~~ County.

(5) ~~three~~ Three members shall be residents of counties adjacent to the Blue Ridge Parkway, the Great Smoky Mountains National Park or the Pisgah or Nantahala national forests.

The appointment of members shall be for terms of four years, or until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

(b) Officers. – The Council shall elect a ~~chairman,~~chair, a ~~vice-chairman~~ vice-chair, and a secretary. The ~~chairman and the vice-chairman~~chair and vice-chair shall all be members of the Council, but the secretary need not be a member of the Council. These officers shall perform the duties usually pertaining to such offices and when elected shall serve for a period of one year, but may be reelected. In case of vacancies by resignation or death, the office shall be filled by the Council for the unexpired term of said officer.

(c) Removal. – The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

(d) Compensation. – Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5 and G.S. 143B-15 of the Executive Organization Act of 1973.

(e) Quorum. – Five members of the Council shall constitute a quorum for the transaction of business."

SECTION 7.(d) G.S. 143B-324.3 reads as rewritten:

"**§ 143B-324.3. ~~North Carolina National Park, Parkway and Forests Development Council~~ Western North Carolina Public Lands Council meetings.**

The ~~North Carolina National Park, Parkway and Forests Development Council~~ Western North Carolina Public Lands Council shall meet monthly and may hold special meetings at any time and place within the State at the call of the ~~chairman~~ chair or upon written request of at least a majority of the members."

SECTION 7.(e) G.S. 143B-432(a) reads as rewritten:

"(a) The Division of Economic Development of the Department of Natural and Economic Resources, the Science and Technology Committee of the Department of Natural and Economic Resources, the Science and Technology Research Center of the Department of Natural and Economic Resources, and the ~~North Carolina National Park, Parkway and Forests Development Council~~Western North Carolina Public Lands Council of the Department of Natural and Economic Resources are each hereby transferred to the Department of Commerce by a Type I transfer, as defined in G.S. 143A-6."

SECTION 7.(f) G.S. 143B-433 reads as rewritten:

"**§ 143B-433. Department of Commerce – organization.**

The Department of Commerce shall be organized to include:

(1) The following agencies:

...

p. ~~North Carolina National Park, Parkway and Forests Development Council.~~Western North Carolina Public Lands Council.

..."

SECTION 7.(g) G.S. 153B-3(d) reads as rewritten:

"(d) Membership. – The Commission shall consist of 17 members as follows:

...

(4) One member to represent the ~~North Carolina National Parks, Parkway and Forests Development Council.~~Western North Carolina Public Lands Council.

..."

SECTION 8. G.S. 143-355.2(h1) reads as rewritten:

"(h1) A trade or professional organization representing commercial car washes may establish a voluntary water conservation and water use efficiency certification program to encourage and promote the use of year-round water conservation and water use efficiency ~~measures~~ measures. Implementation of a voluntary water conservation and water use efficiency program shall be considered in determining compliance with local government water shortage response plans as follows:

(1) A water conservation and water use efficiency certification may only be issued to a person that demonstrates ~~that water use from its water consuming processes is reduced by and maintained at twenty percent (20%) or more below the yearly average water use for the calendar year preceding application for certification.~~full implementation of a voluntary water conservation and water use efficiency program that is approved pursuant to subdivision (3) of this subsection. In order to receive and maintain certification, a person must have its facility inspected on an annual basis by a licensed plumbing contractor who will confirm that the applicant is in compliance with the standards of the certification program.

(2) A unit of local government that provides public water service or a large community water system shall recognize and credit a commercial car wash that has met the standards of a certification program for at least six months prior to the most recent extreme drought designation for water conservation achieved under the program. To the extent that a tiered response stage in the water shortage response plan requires commercial or industrial users to implement a percentage reduction in use, a car wash certified under a program shall be credited with the percentage reduction achieved by measures implemented under the program. Car washes certified under a program shall not be required to reduce consumption more than any other class of commercial or industrial water users during a water shortage emergency.

(3) To qualify as an approved water conservation and water use efficiency certification program, the Department of Environment and Natural Resources shall determine that the program ~~effectively utilizes industry best management practices for the efficient use of water and~~ achieves year-round reductions in water ~~use.~~use and results in a reduction of twenty percent (20%) or more in average water use per vehicle. Best management practices may include, but are not limited to, recycling, reclaiming, or reusing a portion of the water in the consuming processes. If a unit of local government that provides public water service or a large community water system determines that a person certified under such a program is not complying with the terms and standards of the certification program, it may refuse to recognize and credit the conservation measures."

SECTION 9. G.S. 143-355.6 reads as rewritten:

"**§ 143-355.6. Enforcement.**

(a) The Secretary may assess a civil penalty of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) against any person who:

(1) Fails to report water use or other information required under G.S. 143-355(k).

(2) Fails to act in accordance with the terms, conditions, or requirements of an order issued by the Secretary under G.S. 143-355.3.

(3) Violates any provision of this Article or any rule adopted by the Commission, the Department, or the Secretary implementing this Article.

(b) For each willful action or failure to act for which a penalty may be assessed under this section, the Secretary may consider each day the action or inaction continues after notice is given of the violation as a separate violation. A separate penalty may be assessed for each separate violation.

(c) The Secretary may assess a civil penalty of not more than ten thousand dollars ($10,000) per month against a unit of local government that provides public water service or a large community water system that fails to implement the water conservation measures set out

in the water shortage response plan approved by the Department under G.S. 143-355.2, measures required by the Department under subsections (b) and (d) of G.S. 143-355.2, or the default measures required under rules adopted by the Commission under S.L. 2002-167. ~~The Secretary may remit a civil penalty based on the factors set out in G.S. 143B-282.1(c)(1).~~

(c1) The amount of the civil penalty shall be based on the factors set out in G.S. 143B-282.1(b). The procedures set out in G.S. 143B-282.1 shall apply to civil penalty assessments that are presented to the Commission for final agency decision.

(c2) Requests for remission of civil penalties shall be filed with the Secretary. Remission requests shall not be considered unless made within 30 days of receipt of the notice of assessment. Remission requests must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B of the General Statutes and a stipulation of the facts on which the assessment was based. Consistent with the limitations in G.S. 143B-282.1(c) and (d), remission requests may be resolved by the Secretary and the violator. If the Secretary and the violator are unable to resolve the request, the Secretary shall deliver remission requests and the Secretary's recommended action to the Committee on Civil Penalty Remissions of the Commission appointed pursuant to G.S. 143B-282.1(c).

(c3) If any civil penalty has not been paid within 30 days after the notice of assessment has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or in which the violator's principal place of business is located to recover the amount of the assessment, unless the violator contests the assessment as provided in subsection (e) of this section, or requests remission of the assessment in whole or in part as provided in subsection (c2) of this section. If any civil penalty has not been paid within 30 days after the final agency decision or court order has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or in which the violator's principal place of business is located to recover the amount of the assessment.

(d) The violation of emergency water conservation rules adopted by the Secretary pursuant to G.S. 143-355.3(b) is a Class 1 misdemeanor.

(e) The Secretary shall notify any person assessed a civil penalty of the assessment and the specific reasons for the assessment by registered or certified mail or by any means authorized by G.S. 1A-1, Rule 4. Contested case petitions shall be filed within 30 days of receipt of the notice of assessment.

(f) The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

SECTION 10. G.S. 143B-299(a) reads as rewritten:

"(a) Creation; Membership. – There is hereby created in the Department of Environment and Natural Resources the North Carolina Sedimentation Control Commission, which is charged with the duty of developing and administering the sedimentation control program provided for in this Article. The Commission shall consist of the following members:

(1) A person to be nominated jointly by the boards of the North Carolina League of Municipalities and the North Carolina Association of County ~~Commissioners;~~Commissioners.

(2) A person to be nominated by the Board of the North Carolina Home Builders ~~Association;~~Association.

(3) A person to be nominated by the Carolinas Branch, Associated General Contractors of ~~America;~~America.

(4) ~~The president, vice-president, or general counsel~~A representative of a North Carolina public utility ~~company;~~company.

(5) The Director of the North Carolina Water Resources Research ~~Institute;~~Institute.

(6) A member of the State Mining Commission who shall be a representative of nongovernmental conservation interests, as required by ~~G.S. 74-38(b);~~G.S. 74-38(b).

(7) A member of the State Soil and Water Conservation ~~Commission;~~Commission.

(8) A member of the Environmental Management ~~Commission;~~Commission.

(9) A soil scientist from the faculty of North Carolina State ~~University;~~University.

(10) Two persons who shall be representatives of nongovernmental conservation ~~interests; and~~interests.

(11) A professional engineer registered under the provisions of Chapter 89C of the General Statutes nominated by the Professional Engineers of North Carolina, Inc."

SECTION 11.(a) G.S. 153A-102.1 reads as rewritten:

"**§ 153A-102.1. ~~Electronic notice~~Notice of new fees and fee increases; public comment period.**

(a) ~~If a county has a Web site maintained by one or more of its employees, the~~A county shall provide notice to interested parties of the imposition of or increase in fees or charges applicable solely to the construction of development subject to the provisions of Part 2 of Article 18 of this Chapter ~~on the county's Web site~~ at least seven days prior to the first meeting where the imposition of or increase in the fees or charges is on the agenda for consideration. The county shall employ at least two of the following means of communication in order to provide the notice required by this section:

(1) Notice of the meeting in a prominent location on a Web site managed or maintained by the county.

(2) Notice of the meeting in a prominent physical location, including, but not limited to, any government building, library, or courthouse within the county.

(3) Notice of the meeting by electronic mail to a list of interested parties that is created by the county for the purpose of notification as required by this section.

(4) Notice of the meeting by facsimile to a list of interested parties that is created by the county for the purpose of notification as required by this section.

(a1) If a county manages or maintains a Web site, it may provide the notice required pursuant to G.S. 160A-4.1, 130A-64.1, or 162A-9 on its Web site at the request of a city, sanitary district, or water and sewer authority that does not manage or maintain a Web site of its own. Any county that elects to provide such notice shall post the notice to its Web site within seven days of the request made by the city, sanitary district, or water and sewer authority.

(b) During the consideration of the imposition of or increase in fees or charges as provided in subsection (a) of this section, the governing body of the county shall permit a period of public comment.

(c) This section shall not apply if the imposition of or increase in fees or charges is contained in a budget filed in accordance with the requirements of G.S. 159-12."

SECTION 11.(b) G.S. 160A-4.1 reads as rewritten:

"**§ 160A-4.1. ~~Electronic notice~~ Notice of new fees and fee increases; public comment period.**

(a) ~~If a city has a Web site maintained by one or more of its employees, the~~A city shall provide notice to interested parties of the imposition of or increase in fees or charges applicable solely to the construction of development subject to the provisions of Part 2 of Article 19 of

this Chapter ~~on the city's Web site~~ at least seven days prior to the first meeting where the imposition of or increase in the fees or charges is on the agenda for consideration. The city shall employ at least two of the following means of communication in order to provide the notice required by this section:

(1) Notice of the meeting in a prominent location on a Web site managed or maintained by the city.

(2) Notice of the meeting in a prominent physical location, including, but not limited to, any government building, library, or courthouse within the city.

(3) Notice of the meeting by electronic mail to a list of interested parties that is created by the city for the purpose of notification as required by this section.

(4) Notice of the meeting by facsimile to a list of interested parties that is created by the city for the purpose of notification as required by this section.

(a1) If a city does not maintain its own Web site, it may employ the notice option provided by subdivision (1) of subsection (a) of this section by submitting a request to a county or counties in which the city is located to post such notice in a prominent location on a Web site that is maintained by the county or counties. Any city that elects to provide such notice shall make its request to the county or counties at least 15 days prior to the date of the first meeting where the imposition of or increase in the fees or charges is on the agenda for consideration.

(b) During the consideration of the imposition of or increase in fees or charges as provided in subsection (a) of this section, the governing body of the city shall permit a period of public comment.

(c) This section shall not apply if the imposition of or increase in fees or charges is contained in a budget filed in accordance with the requirements of G.S. 159-12."

SECTION 11.(c) G.S. 130A-64.1 reads as rewritten:

"**§ 130A-64.1. ~~Electronic notice~~Notice of new or increased charges and rates; public comment period.**

(a) ~~If a sanitary district has a Web site maintained by one or more of its employees, the~~A sanitary district shall provide notice to interested parties of the imposition of or increase in service charges or rates applicable solely to the construction of development subject to Part 2 of Article 19 of Chapter 160A or Part 2 of Article 18 of Chapter 153A for any service provided by the sanitary district ~~on the sanitary district's Web site~~ at least seven days prior to the first meeting where the imposition of or increase in the charges or rates is on the agenda for consideration. The sanitary district shall employ at least two of the following means of communication in order to provide the notice required by this section:

(1) Notice of the meeting in a prominent location on a Web site managed or maintained by the sanitary district.

(2) Notice of the meeting in a prominent physical location, including, but not limited to, the district's headquarters or any government building, library, or courthouse located within the sanitary district.

(3) Notice of the meeting by electronic mail to a list of interested parties that is created by the sanitary district for the purpose of notification as required by this section.

(4) Notice of the meeting by facsimile to a list of interested parties that is created by the sanitary district for the purpose of notification as required by this section.

(a1) If a sanitary district does not maintain its own Web site, it may employ the notice option provided by subdivision (1) of subsection (a) of this section by submitting a request to a county or counties in which the district is located to post such notice in a prominent location on a Web site that is maintained by the county or counties. Any sanitary district that elects to provide such notice shall make its request to the county or counties at least 15 days prior to the

date of the first meeting where the imposition of or increase in the fees or charges is on the agenda for consideration.

(b) During the consideration of the imposition of or increase in service charges or rates as provided in subsection (a) of this section, the governing body of the sanitary district shall permit a period of public comment.

(c) This section shall not apply if the imposition of or increase in service charges or rates is contained in a budget filed in accordance with the requirements of G.S. 159-12."

SECTION 11.(d) G.S. 162A-9 reads as rewritten:

"**§ 162A-9. Rates and charges; ~~electronic~~ notice; contracts for water or services; deposits; delinquent charges.**

(a) An authority may establish and revise a schedule of rates, fees, and other charges for the use of and for the services furnished or to be furnished by any water system or sewer system or parts thereof owned or operated by the authority. The rates, fees, and charges established under this subsection are not subject to supervision or regulation by any bureau, board, commission, or other agency of the State or of any political subdivision.

Before an authority sets or revises rates, fees, or other charges for stormwater management programs and structural or natural stormwater and drainage system service, the authority shall hold a public hearing on the matter. At least seven days before the hearing, the authority shall publish notice of the public hearing in a newspaper having general circulation in the area. An authority may impose rates, fees, or other charges for stormwater management programs and stormwater and drainage system service on a person even though the person has not entered into a contract to receive the service.

Rates, fees, and charges shall be fixed and revised so that the revenues of the authority, together with any other available funds, will be sufficient at all times:

(1) To pay the cost of maintaining, repairing, and operating the systems or parts thereof owned or operated by the authority, including reserves for such purposes, and including provision for the payment of principal of and interest on indebtedness of a political subdivision or of political subdivisions which payment shall have been assumed by the authority, and

(2) To pay the principal of and the interest on all bonds issued by the authority under the provisions of this Article as the same shall become due and payable and to provide reserves therefor.

The fees established under this subsection must be made applicable throughout the service area. Schedules of rates, fees, charges, and penalties for providing stormwater management programs and structural and natural stormwater and drainage system service may vary according to whether the property served is residential, commercial, or industrial property, the property's use, the size of the property, the area of impervious surfaces on the property, the quantity and quality of the runoff from the property, the characteristics of the watershed into which stormwater from the property drains, and other factors that affect the stormwater drainage system. Rates, fees, and charges imposed under this subsection for stormwater management programs and stormwater and drainage system service may not exceed the authority's cost of providing a stormwater management program and a structural and natural stormwater and drainage system. The authority's cost of providing a stormwater management program and a structural and natural stormwater and drainage system includes any costs necessary to assure that all aspects of stormwater quality and quantity are managed in accordance with federal and State laws, regulations, and rules.

No stormwater utility fee may be levied under this subsection whenever two or more units of local government operate separate stormwater management programs or separate structural and natural stormwater and drainage system services in the same area within a county. However, two or more units of local government may allocate among themselves the functions, duties, powers, and responsibilities for jointly operating a stormwater management program

and structural and natural stormwater and drainage system service in the same area within a county, provided that only one unit may levy a fee for the service within the joint service area. For purposes of this subsection, a unit of local government shall include a regional authority providing stormwater management programs and structural and natural stormwater and drainage system services.

(a1) ~~If an authority has a Web site maintained by one or more of its employees, the~~ An authority shall provide notice to interested parties of the imposition of or increase in rates, fees, and charges under subsection (a) of this section applicable solely to the construction of development subject to Part 2 of Article 19 of Chapter 160A or Part 2 of Article 18 of Chapter 153A ~~on the authority's Web site~~ at least seven days prior to the first meeting where the imposition of or increase in the rates, fees, and charges is on the agenda for consideration. The authority shall employ at least two of the following means of communication in order to provide the notice required by this subsection:

(1) Notice of the meeting in a prominent location on a Web site managed or maintained by the authority.

(2) Notice of the meeting in a prominent physical location, including but not limited to the authority's headquarters or any government building, library, or courthouse located within the authority's service area.

(3) Notice of the meeting by electronic mail to a list of interested parties that is created by the authority for the purpose of notification as required by this section.

(4) Notice of the meeting by facsimile to a list of interested parties that is created by the authority for the purpose of notification as required by this section.

(a2) If an authority does not maintain its own Web site, it may employ the notice option provided by subdivision (1) of subsection (a1) of this section by submitting a request to a county or counties in which the authority is located to post such notice in a prominent location on a Web site that is maintained by the county or counties. Any authority that elects to provide such notice shall make its request to the county or counties at least 15 days prior to the date of the first meeting where the imposition of or increase in the fees or charges is on the agenda for consideration.

(a3) During the consideration of the imposition of or increase in rates, fees, or charges under this subsection, the authority shall permit a period of public comment.

(a4) ~~This subsection~~ The notice requirements in subsection (a1) of this section shall not apply if the imposition of or increase in rates, fees, and charges is contained in a budget filed in accordance with the requirements of G.S. 159-12.

(b) Notwithstanding any of the foregoing provisions of this section, the authority may enter into contracts relating to the collection, treatment or disposal of sewage or the purchase or sale of water which shall not be subject to revision except in accordance with their terms.

(c) In order to insure the payment of such rates, fees and charges as the same shall become due and payable, the authority may do the following in addition to exercising any other remedies which it may have:

(1) Require reasonable advance deposits to be made with it to be subject to application to the payment of delinquent rates, fees and charges.

(2) At the expiration of 30 days after any rates, fees and charges become delinquent, discontinue supplying water or the services and facilities of any water system or sewer system of the authority.

(3) Specify the order in which partial payments are to be applied when a bill covers more than one service."

SECTION 12. Section 4 of S.L. 2005-190, as amended by Section 31 of S.L. 2006-259, reads as rewritten:

"**SECTION 4. Other drinking water supply reservoirs.** – The Environmental Management Commission shall not make any new or increased nutrient loading allocation to any person who is required to obtain a permit under G.S. 143-215 for an individual wastewater discharge directly or indirectly into any impaired drinking water supply reservoir for which the Division of Water Quality of the Department of Environment and Natural Resources has prepared or updated a calibrated nutrient response model since 1 July 2002 until permanent rules adopted by the Commission to implement the nutrient management strategy for that reservoir become effective. The Commission shall report its progress in developing and implementing nutrient management strategies for reservoirs to which this section applies to the Environmental Review Commission by 1 April of each year beginning 1 April 2006."

SECTION 13.(a) The Wood and Crop Biomass Strategic Working Group is established. The Working Group shall identify, study, and recommend a comprehensive package of appropriate and targeted policies and financial incentives in order to do all of the following:

(1) Ensure a reliable supply of sustainably managed wood and crop biomass for energy purposes and other sectors.
(2) Develop economic opportunities for rural communities.
(3) Enhance natural resources and promote farm and forest land retention.
(4) Integrate wood and crop biomass into the State's comprehensive energy plan, as recommended by the Energy Policy Council.

SECTION 13.(b) The Wood and Crop Biomass Strategic Working Group shall be convened jointly by the Biofuels Center of North Carolina, the Department of Commerce, the Department of Environment and Natural Resources, and the North Carolina Solar Center at North Carolina State University. The Working Group shall consist of 16 members as follows:

(1) The President of the Biofuels Center of North Carolina or the President's designee.
(2) The Secretary of Commerce or the Secretary's designee.
(3) The Secretary of Environment and Natural Resources or the Secretary's designee.
(4) The Executive Director of the North Carolina Solar Center at North Carolina State University or the Executive Director's designee.
(5) The Commissioner of Agriculture or the Commissioner's designee.
(6) The President of the North Carolina Biotechnology Center or the President's designee.
(7) The President of Duke Power or the President's designee.
(8) The President of Progress Energy or the President's designee.
(9) The Director of the Southeast Office of Environmental Defense or the Director's designee.
(10) The President of the North Carolina Farm Bureau Federation or the President's designee.
(11) The President of the North Carolina Forestry Association or the President's designee.
(12) The Director of the North Carolina Division of Forest Resources of the Department of Environment and Natural Resources or the Director's designee.
(13) The Executive Director of the North Carolina Chapter of The Nature Conservancy or the Executive Director's designee.
(14) The President of Novozymes North America or the President's designee.
(15) The Executive Director of the North Carolina Sustainable Energy Association or the Executive Director's designee.

(16) The Executive Director of the North Carolina Conservation Network or the Executive Director's designee.

SECTION 13.(c) The Wood and Crop Biomass Strategic Working Group shall meet monthly or upon the call of the conveners beginning no later than August 1, 2010. Members of the Working Group shall not receive a salary. Members of the Working Group shall not receive per diem and travel expenses for their service on the Working Group. Staff and administrative assistance to the Working Group shall be provided by the Biofuels Center of North Carolina. The authority granted to the Working Group shall be advisory in nature and in no way shall the Working Group be construed to have any regulatory authority.

SECTION 13.(d) The Wood and Crop Biomass Strategic Working Group shall submit an interim report of its findings and recommendations to the Environmental Review Commission, the Senate and the House of Representatives Appropriations Subcommittees on Natural and Economic Resources, and the Energy Policy Council no later than February 1, 2011. A final report containing findings, recommendations, and any legislative proposals shall be submitted by the Working Group no later than May 1, 2011.

SECTION 14.(a) The Department of Administration, the Department of Agriculture and Consumer Services, the Department of Commerce, the Department of Crime Control and Public Safety, the Department of Environment and Natural Resources, the Department of Health and Human Services, the Department of Insurance, and the Department of Transportation shall:

(1) Review their respective planning and regulatory programs to determine whether the programs currently consider the impacts of global climate change, including adaptation and sea level rise.

(2) For those programs that currently consider the impacts of global climate change, the agency shall describe how the program considers the impacts of global climate change, including adaptation and sea level rise, and recommend whether the consideration of the impacts of global climate change should be modified or expanded.

(3) For those programs that do not currently consider the impacts of global climate change, the agency shall recommend if and how the program should consider the impacts of global climate change, including adaptation and sea level rise.

SECTION 14.(b) No later than September 1, 2011, each State agency shall report the results of its review and any recommendations to the Department of Environment and Natural Resources. The Department shall compile the results and recommendations and report them to the Environmental Review Commission and to any future legislative commission that directly and primarily addresses issues concerning global climate change no later than November 1, 2011.

SECTION 15.(a) Article 9 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 7. Management of Certain Products That Contain Mercury.

"**§ 130A-310.60. Recycling required by public agencies.**

(a) Each State agency, including the General Assembly, the General Court of Justice, universities, community colleges, public schools, and political subdivisions using State funds shall establish a program in cooperation with the Department of Environment and Natural Resources and the Department of Administration for the collection and recycling of all spent fluorescent lights and thermostats that contain mercury generated in public buildings. The program shall include procedures for convenient collection, safe storage, and proper recycling of spent fluorescent lights and thermostats that contain mercury and contractual or other arrangements with buyers of the recyclable materials.

(b) Each State agency, including the General Assembly, the General Court of Justice, universities, community colleges, the Department of Public Instruction on behalf of the public schools, and political subdivisions shall submit a report on or before December 1, 2011, that documents the entity's compliance with the requirements of subsection (a) of this section to the Department of Environment and Natural Resources and the Department of Administration. The Departments shall compile the information submitted and jointly shall submit a report to the Environmental Review Commission on or before January 15, 2012, concerning the activities required by subsection (a) of this section. The information provided shall also be included in the report required by G.S. 130A-309.06(c).

"**§ 130A-310.61. Removal and recycling of mercury-containing products from structures to be demolished.**

Prior to demolition of any building or structure in the State, the contractor responsible for the demolition activity or the owner of the building or structure to be demolished shall remove all fluorescent lights and thermostats that contain mercury from the building or structure to be demolished."

SECTION 15.(b) G.S. 130A-309.10 is amended by adding a new subsection to read:

"(m) No person shall knowingly dispose of fluorescent lights and thermostats that contain mercury in a sanitary landfill for the disposal of construction and demolition debris waste that is unlined or in any other landfill that is unlined."

SECTION 15.(c) G.S. 130A-22 reads as rewritten:

"**§ 130A-22. Administrative penalties.**

(a) The Secretary of Environment and Natural Resources may impose an administrative penalty on a person who violates Article 9 of this Chapter, rules adopted by the Commission pursuant to Article 9, or any term or condition of a permit or order issued under Article 9. Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed fifteen thousand dollars ($15,000) per day in the case of a violation involving nonhazardous waste. The penalty shall not exceed thirty-two thousand five hundred dollars ($32,500) per day in the case of a first violation involving hazardous waste as defined in G.S. 130A-290 or involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical waste entering waters or lands of the State; and shall not exceed fifty thousand dollars ($50,000) per day for a second or further violation involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical waste entering waters or lands of the State. The penalty shall not exceed thirty-two thousand five hundred dollars ($32,500) per day for a violation involving a voluntary remedial action implemented pursuant to G.S. 130A-310.9(c) or a violation of the rules adopted pursuant to G.S. 130A-310.12(b). The penalty shall not exceed one hundred dollars ($100.00) for a first violation; two hundred dollars ($200.00) for a second violation within any 12-month period; and five hundred dollars ($500.00) for each additional violation within any 12-month period for any violation of Part 2G of Article 9 of this Chapter. The penalty shall not exceed one hundred dollars ($100.00) for a first violation; two hundred dollars ($200.00) for a second violation within any 12-month period; and five hundred dollars ($500.00) for each additional violation within any 12-month period for any violation of Part 7 of Article 9 of this Chapter and G.S. 130A-309.10(m). If a person fails to pay a civil penalty within 60 days after the final agency decision or court order has been served on the violator, the Secretary of Environment and Natural Resources shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment. Such civil actions must be filed within three years of the date the final agency decision or court order was served on the violator."

SECTION 15.(d) G.S. 130A-25 reads as rewritten:

"**§ 130A-25. Misdemeanor.**

(a) ~~A~~ Except as otherwise provided, a person who violates a provision of this Chapter or the rules adopted by the Commission or a local board of health shall be guilty of a misdemeanor.

...

(d) A violation of Part 7 of Article 9 of this Chapter or G.S. 130A-309.10(m) shall be punishable as a Class 3 misdemeanor."

SECTION 16. The Environmental Review Commission may study the penalties applicable to violations of G.S 130A-309.10 (Prohibited acts related to packaging; coded labeling of plastic containers required; disposal of certain solid wastes in landfills or by incineration prohibited), and report its findings, together with any recommended legislation, to the 2011 Regular Session of the 2011 General Assembly upon its convening.

SECTION 17. Section 6 of this act becomes effective October 1, 2010, and applies to violations that occur on or after that date. Section 9 of this act becomes effective October 1, 2010, and applies to penalties assessed on or after that date. Sections 11.(a), 11.(b), 11.(c), and 11.(d) of this act become effective February 1, 2011. Sections 15.(a), 15.(b), 15.(c), and 15.(d) of this act become effective December 1, 2010. All other sections of this act are effective when the act becomes law.

HOUSE BILL 1766:
Amend Environmental Laws 2010

2009-2010 General Assembly

Committee:	House Environment and Natural Resources, if favorable, Finance	**Date:**	July 1, 2010
Introduced by:	Representative Gibson	**Prepared by:**	Jennifer Mundt Legislative Analyst
Analysis of:	PCS to First Edition H1766-CSTF-4 [v.10]		

SUMMARY: ***The Proposed Committee Substitute (PCS) for House Bill 1766 amends certain environmental and natural resources laws.***

[As introduced, this bill was identical to S1167, as introduced by Sen. Clodfelter, which is currently in the Senate Agriculture/Environment/Natural Resources Committee.]

BILL ANALYSIS: The PCS for House Bill 1766 would amend certain environmental and natural resources laws as follows:

Section 1 would change the location of the horizontal control monument files for plat and subdivision mapping requirements from the North Carolina Office of Budget and Management to the North Carolina Geodetic Survey Section of the Division of Land Resources of the Department of Environment and Natural Resources (DENR).

Section 2 would provide that the President Pro Tempore and the Speaker may designate multiple members to serve as Cochairs of the Environmental Review Commission. Existing law provides that the Pro Tempore and Speaker may only designate one member, respectively, to serve as Cochair.

Section 3 would repeal the requirement that remedial action plans for inactive hazardous substance or waste disposal sites be recorded in the register of deeds office in the county or counties in which the site is located. This Section would also modify the requirement that remedial action plans be placed in each library in the county or counties in which the site is located and instead require the plans to be placed only the library in the county that is in closest proximity to the site.

Section 4 would reestablish the Surface Water Identification and Training Certification Program under the Riparian Buffer Protection Program. This training and certification program was first established in 2001 and expired in 2004; however, the Division of Water Quality (DWQ) in DENR has continued to offer the training since 2004. DWQ's program trains and certifies DWQ employees, local government employees, and Registered Foresters employed by the Division of Forest Resources to determine the presence of surface waters that require application of the Environmental Management Commission's Riparian Buffer Protection Rules. DWQ would be required to report annually to the Environmental Review Commission (ERC) on the effectiveness of the program and any findings and recommendations beginning on October 1, 2011.

Section 5 would amend the requirement for owners or operators of any permitted wastewater collection or treatment works to provide an annual report to users or customers of the system such that the reporting requirement would only apply to those permitted systems that have an average annual flow of greater than 200,000 gallons per day.

Section 6 would amend the maximum civil penalty that may be assessed by local air programs for air quality violations from $10,000 per day to $25,000 per day to conform to similar changes in enforcement and civil procedures for air quality violations that were enacted during the 2007 Session. Three counties (Buncombe, Forsyth, and Mecklenburg) have established local air programs. Section 6 would become effective October 1, 2010.

Section 7 would change the name of the North Carolina National Park, Parkway and Forests Development Council to the Western North Carolina Public Lands Council and makes clarifying and technical changes to those affected statutes.

Section 8 would clarify the standards for qualification of voluntary water conservation and water use efficiency programs established by trade or professional organizations representing commercial car washes. The PCS would provide that implementation of voluntary programs would be considered in determining compliance with a local government water shortage response plan such that an approved programs achieves year-round reductions in water use and results in a reduction of 20% or more in average water use per vehicle.

Section 9 would clarify the procedures that DENR must follow to enforce the provisions of the Drought Management Preparedness and Response Act enacted in 2008. Section 9 would become effective October 1, 2010.

Section 10 would amend the membership of the Sedimentation Control Commission such that the member from a North Carolina public utility company would be a representative of a utility rather than stipulate the member be the president, vice-president, or general counsel of a utility.

Section 11 would amend the notice requirements for cities, counties, sanitary districts, and water and sewer authorities when considering imposing or increasing fees or charges related to subdivision development. This section would require the entities to provide notice to interested parties of the imposition of or increase in fees at least seven days prior to the first meeting where the fee is on the agenda for consideration using two of the following means of communication:

1) Notice in a prominent location on a Web site managed or maintained by the entity.
2) Notice in a prominent physical location.
3) Notice by electronic mail to a list of interested parties.
4) Notice by facsimile to a list of interested parties.

In order to comply with the notice option provided in 1) above, cities, sanitary districts, and water and sewer authorities that do not manage or maintain their own website may submit a request to the county or counties in which they are located to post the notice on their behalf. Section 11 would become effective February 1, 2011.

Section 12 would provide that the existing prohibition on any new or increased nutrient loading allocation applies only to impaired drinking water supply reservoirs.

Section 13 would establish the 16-member Wood and Crop Biomass Strategic Working Group (Working Group) to identify, study, and recommend a comprehensive package of appropriate and targeted policies and financial incentives to:

1) Ensure a reliable supply of sustainably managed wood and crop biomass for energy purposes and other sectors.
2) Develop economic opportunities for rural communities.
3) Enhance natural resources and promote farm and forest land retention.

4) Integrate wood and crop biomass into the State's comprehensive energy plan.

The Working Group would be required to submit an interim report to the ERC, the Senate and House of Representatives Appropriations Subcommittees, and the Energy Policy Council by February 1, 2011 and must submit a final report to those entities by May 1, 2011.

Section 14 would require the Departments of Administration, Agriculture and Consumer Services, Commerce, Crime Control and Public Safety, Environment and Natural Resources, Health and Human Services, Insurance, and Transportation to review their respective planning and regulatory programs to determine whether they currently consider the impacts of global climate change, including adaptation and sea level rise. The agencies would have to describe how any such program considers the impacts of global climate change and make recommendations for modification or expansion as determined by the agency. For programs that do not address global climate change, the agency must recommend if and how the program should consider global climate change.

Each agency would be required to report the results of its review to DENR by September 1, 2011 after which time DENR would be required to compile those results and report them to the ERC and any future legislative commission that directly and primarily addresses global climate change on or before November 1, 2011.

Section 15 would:

- Require all public agencies (State agencies, including the General Assembly, the General Court of Justice, universities, community colleges, public schools, and political subdivisions) to: (i) implement a program by December 1, 2010 for the collection and recycling of all spent fluorescent lights and thermostats that contain mercury generated in State offices; and (ii) report on their compliance with this requirement to DENR and the Department of Administration (DOA) on or before December 1, 2011. DENR and DOA would then compile the information submitted from all agencies and jointly submit a report to the ERC on or before January 15, 2012.
- Require a contractor responsible for building demolition or an owner of property to be demolished to remove all fluorescent lights and thermostats that contain mercury from the building prior to demolition.
- Prohibit the disposal of fluorescent lights and thermostats that contain mercury in a sanitary landfill for the disposal of construction and demolition debris, and other unlined landfills. This ban would become effective December 1, 2010. A knowing violation of this provision would be punishable as a Class 3[1] misdemeanor and would subject the violator to the imposition of administrative penalties as follows:
  - First violation – not more than $100.00
  - Second violation within any 12-month period – not more than $200.00
  - Each additional violation within any 12-month period – $500.00

  Under current law, with regard to other recycling requirements applicable to State agencies, G.S.130A-309.14 requires all agencies to have a program to collect recyclable materials, specifically including aluminum, newspaper, sorted office paper, recyclable glass, and plastic bottles.

  With regard to other items banned from disposal in landfills, these include: used oil; yard trash; white goods; antifreeze; aluminum cans; whole scrap tires; lead-acid batteries; beverage containers

[1] The range of punishment for a Class 3 misdemeanor, assuming no prior convictions, is 1-10 days community punishment

that are required to be recycled by ABC permittees; motor vehicle oil filters (effective October 1, 2009); wooden pallets, except that wooden pallets may be disposed of in a landfill that is permitted to only accept construction and demolition debris (effective October 1, 2009); oyster shells; discarded computer equipment (effective January 1, 2011); and discarded televisions (effective January 1, 2011).[2] Knowing violation of these provisions would subject the violator to the imposition of an administrative penalty of up to $15,000 per day, and would be punishable as a Class 1 misdemeanor (note that accidental or occasional disposal of small amounts of prohibited solid waste by landfill or incineration are not to be construed as a violation under the statute).[3,4]

Section 15 would become effective December 1, 2010.

Section 16 would authorize the ERC to study the penalties applicable to violations of G.S. 130A-309.10 (Prohibited acts related to packaging; coded labeling of plastic containers required; disposal of certain solid wastes in landfills or by incineration prohibited), and report findings and any legislative recommendations to the 2011 Regular Session of the 2011 General Assembly upon its convening.

EFFECTIVE DATE: Except as specifically noted in Sections 6, 9, 11, and 15 above, this bill would become effective when it becomes law.

H1766-SMTA-97(CSTF-4) v3

Jennifer McGinnis, counsel to the House Environment and Natural Resources Committee, contributed to this summary.

[2] These items are banned from disposal in ***all landfills***. The disposal ban proposed under the PCS covering fluorescent lights and thermostats containing mercury would only be applicable to sanitary landfill for the disposal of construction and demolition debris. and other unlined landfills.

[3] See G.S. 130A-22 (Administrative Penalties) and G.S. 130A-25(a) (Misdemeanor)/GS 14-3(a) (Punishment of Misdemeanors...).

[4] The range of punishment for a Class 1 misdemeanor, assuming no prior convictions, is 1-45 days community punishment.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1766

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

H1766-ATA-40 [v.1]

Comm. Sub. [YES]
Amends Title [NO]
H1766-CSTF-4 [v.10]

Date July 1, 2010

Representative Gillespie

moves to amend the bill on page 12, line 21 through page 13, line 2 by rewriting those lines to read:

"**SECTION 13.(b)** The Wood and Crop Biomass Strategic Working Group shall be convened jointly by the Biofuels Center of North Carolina, the Department of Commerce, the Department of Environment and Natural Resources, and the North Carolina Solar Center at North Carolina State University. The Working Group shall consist of 20 members as follows:

(1) The President of the Biofuels Center of North Carolina or the President's designee.
(2) The Secretary of Commerce or the Secretary's designee.
(3) The Secretary of Environment and Natural Resources or the Secretary's designee.
(4) The Executive Director of the North Carolina Solar Center at North Carolina State University or the Executive Director's designee.
(5) The Commissioner of Agriculture or the Commissioner's designee.
(6) The President of the North Carolina Biotechnology Center or the President's designee.
(7) The President of Duke Power or the President's designee.
(8) The President of Progress Energy or the President's designee.
(9) The Director of the Southeast Office of Environmental Defense or the Director's designee.
(10) The President of the North Carolina Farm Bureau Federation or the President's designee.
(10a) Two members who are farmers, to be appointed by the President of the North Carolina Farm Bureau Federation.
(11) The President of the North Carolina Forestry Association or the President's designee.
(11a) Two members who are forest lands owners, to be appointed by the President of the North Carolina Forestry Association.
(12) The Director of the North Carolina Division of Forest Resources of the Department of Environment and Natural Resources or the Director's designee.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1766

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

H1766-ATA-40 [v.1]

(13) The Executive Director of the North Carolina Chapter of The Nature Conservancy or the Executive Director's designee.
(14) The President of Novozymes North America or the President's designee.
(15) The Executive Director of the North Carolina Sustainable Energy Association or the Executive Director's designee.
(16) The Executive Director of the North Carolina Conservation Network or the Executive Director's designee.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1766

AMENDMENT NO. 2
(to be filled in by Principal Clerk)

H1766-ATA-38 [v.3]

Comm. Sub. [YES]
Amends Title [YES]
H1766-CSTF-4 [v.10]

Date July 1, ,2010

Representative McComas

moves to amend the bill on page 2, lines 6 through 10,
by rewriting those lines to read:

"UNLINED LANDFILLS; (16) AUTHORIZE THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY THE PENALTIES APPLICABLE TO VIOLATIONS OF G.S. 130A-309.10 (PROHIBITED ACTS RELATED TO PACKAGING; CODED LABELING OF PLASTIC CONTAINERS REQUIRED; DISPOSAL OF CERTAIN SOLID WASTES IN LANDFILLS OR BY INCINERATION PROHIBITED); AND (17) PROVIDE THAT LOCAL GOVERNMENTS AND LARGE COMMUNITY WATER SYSTEMS ONLY REQUIRE SEPARATE METERS FOR NEW IN-GROUND IRRIGATION SYSTEMS FOR LOTS PLATTED AFTER JULY 1, 2009 THAT ARE CONNECTED TO THEIR SYSTEMS.";

and on page 15, line 12,
by rewriting that line to read:

"**SECTION 17.** G.S. 143-355.4(a) reads as rewritten:

'(a) Local government water systems and large community water systems shall require separate meters for new in-ground irrigation systems on lots platted after July 1, 2009 that are connected to their systems.'

SECTION 18. Section 6 of this act becomes effective October 1, 2010 and applies".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. H1766-CSTF-4[v.10]

H. B. No. 1766 DATE 7-1-10

S. B. No. _____ Amendment No. 3
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE ✓

(Rep.) Sen.) Haire

moves to amend the bill on page 4, line 45

( ) WHICH CHANGES THE TITLE

by rewriting that line to read

"(5) One member shall be a resident of Cherokee County.

~~(5) three~~ (6) Two members shall be residents of counties adjacent to the Blue".

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1766
PROPOSED COMMITTEE SUBSTITUTE H1766-PCS50966-TF-4

Short Title: Amend Environmental Laws 2010. (Public)

Sponsors:

Referred to:

May 18, 2010

A BILL TO BE ENTITLED

AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS TO: (1) CHANGE THE LOCATION OF THE HORIZONTAL CONTROL MONUMENT FILES FOR PLAT AND SUBDIVISION MAPPING REQUIREMENTS; (2) PROVIDE THAT THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES MAY DESIGNATE MULTIPLE MEMBERS TO SERVE AS COCHAIRS OF THE ENVIRONMENTAL REVIEW COMMISSION; (3) REPEAL THE REQUIREMENT THAT REMEDIAL ACTION PLANS BE RECORDED IN THE REGISTER OF DEEDS OFFICE AND MODIFY THE REQUIREMENT THAT REMEDIAL ACTION PLANS BE PLACED IN EACH PUBLIC LIBRARY IN THE COUNTY; (4) REESTABLISH THE SURFACE WATER IDENTIFICATION TRAINING AND CERTIFICATION PROGRAM AS A COMPONENT OF THE RIPARIAN BUFFER PROTECTION PROGRAM; (5) AMEND THE CUSTOMER REPORTING REQUIREMENTS FOR SMALL WASTEWATER SYSTEMS; (6) AMEND CIVIL PENALTIES FOR CERTAIN AIR QUALITY VIOLATIONS TO CONFORM WITH CHANGES MADE IN S.L. 2007-296; (7) CHANGE THE NAME OF THE NORTH CAROLINA NATIONAL PARK, PARKWAY AND FORESTS DEVELOPMENT COUNCIL TO THE WESTERN NORTH CAROLINA PUBLIC LANDS COUNCIL; (8) CLARIFY THE STANDARDS FOR QUALIFICATION OF VOLUNTARY WATER CONSERVATION AND WATER USE EFFICIENCY PROGRAMS; (9) AMEND THE ENFORCEMENT AUTHORITY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES UNDER THE DROUGHT MANAGEMENT PREPAREDNESS AND RESPONSE ACT; (10) AMEND DESIGNATION OF THE MEMBER OF THE SEDIMENTATION CONTROL COMMISSION REPRESENTING A NORTH CAROLINA PUBLIC UTILITY COMPANY; (11) AMEND THE NOTICE REQUIREMENTS FOR CITIES, COUNTIES, SANITARY DISTRICTS, AND WATER AND SEWER AUTHORITIES WHEN IMPOSING OR INCREASING CERTAIN FEES OR CERTAIN CHARGES; (12) PROVIDE THAT THE PROHIBITION ON ANY NEW OR INCREASED NUTRIENT LOADING ALLOCATION APPLIES TO IMPAIRED DRINKING WATER SUPPLY RESERVOIRS; (13) ESTABLISH THE NORTH CAROLINA WOOD AND CROP BIOMASS STRATEGIC WORKING GROUP; (14) DIRECT CERTAIN STATE AGENCIES TO REVIEW THEIR PLANNING AND REGULATORY PROGRAMS AND RECOMMEND WHETHER THOSE PROGRAMS SHOULD INCLUDE

CONSIDERATION OF THE IMPACTS OF GLOBAL CLIMATE CHANGE; (15) REQUIRE ALL PUBLIC AGENCIES TO RECYCLE ALL SPENT FLUORESCENT LIGHTS AND MERCURY THERMOSTATS, REQUIRE THE REMOVAL OF ALL FLUORESCENT LIGHTS AND MERCURY THERMOSTATS FROM BUILDINGS PRIOR TO DEMOLITION, AND BAN MERCURY-CONTAINING PRODUCTS FROM UNLINED LANDFILLS, (16) AUTHORIZE THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY THE PENALTIES APPLICABLE TO VIOLATIONS OF G.S. 130A-309.10 (PROHIBITED ACTS RELATED TO PACKAGING; CODED LABELING OF PLASTIC CONTAINERS REQUIRED; DISPOSAL OF CERTAIN SOLID WASTES IN LANDFILLS OR BY INCINERATION PROHIBITED); AND (17) PROVIDE THAT LOCAL GOVERNMENTS AND LARGE COMMUNITY WATER SYSTEMS ONLY REQUIRE SEPARATE METERS FOR NEW IN-GROUND IRRIGATION SYSTEMS FOR LOTS PLATTED AFTER JULY 1, 2009, THAT ARE CONNECTED TO THEIR SYSTEMS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 47-30(f)(9) reads as rewritten:

"(9) Where the plat is the result of a survey, one or more corners shall, by a system of azimuths or courses and distances, be accurately tied to and coordinated with a horizontal control monument of some United States or State Agency survey system, such as the North Carolina Geodetic Survey where the monument is within 2,000 feet of the subject property. Where the North Carolina Grid System coordinates of the monument are on file in the ~~North Carolina Office of State Budget and Management,~~ North Carolina Geodetic Survey Section in the Division of Land Resources of the Department of Environment and Natural Resources, the coordinates of both the referenced corner and the monuments used shall be shown in X (easting) and Y (northing) coordinates on the plat. The coordinates shall be identified as based on "NAD 83," indicating North American Datum of 1983, or as "NAD 27," indicating North American Datum of 1927. The tie lines to the monuments shall also be sufficient to establish true north or grid north bearings for the plat if the monuments exist in pairs. Within a previously recorded subdivision that has been tied to grid control, control monuments within the subdivision may be used in lieu of additional ties to grid control. Within a previously recorded subdivision that has not been tied to grid control, if horizontal control monuments are available within 2,000 feet, the above requirements shall be met; but in the interest of bearing consistency with previously recorded plats, existing bearing control should be used where practical. In the absence of ~~Grid Control,~~ grid control, other appropriate natural monuments or landmarks shall be used. In all cases, the tie lines shall be sufficient to accurately reproduce the subject lands from the control or reference points used."

SECTION 2. G.S. 120-70.42(b) reads as rewritten:

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

SECTION 3. G.S. 130A-310.4(b) reads as rewritten:

"(b) Before approving any remedial action plan, the Secretary shall make copies of the proposed plan available for inspection as follows:

(1) A copy of the plan shall be provided to the local health director.

~~(2) A copy of the proposed plan shall be filed with the register of deeds in the county or counties in which the site is located.~~

(3) A copy of the plan shall be provided to the ~~each~~ public library located in closest proximity to the site in the county or counties in which the site is located.

(4) The Secretary may place copies of the plan in other locations so as to assure the availability thereof to the public.

In addition, copies of the plan shall be available for inspection and copying at cost by the public during regular business hours in the offices of the agency within the Department with responsibility for the administration of the remedial action program."

SECTION 4.(a) Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-214.25A. Riparian Buffer Protection Program: Surface Water Identification Training and Certification Program.**

(a) The Division of Water Quality of the Department shall develop a program to train and certify individuals to determine the presence of surface waters that would require the application of rules adopted by the Commission for the protection of riparian buffers. The Division may train and certify employees of the Division as determined by the Director of the Division of Water Quality; employees of units of local government to whom responsibility for the implementation and enforcement of the riparian buffer protection rules is delegated pursuant to G.S. 143-214.23; and Registered Foresters under Chapter 89B of the General Statutes who are employees of the Division of Forest Resources of the Department as determined by the Director of the Division of Forest Resources. The Director of the Division of Water Quality may review the determinations made by individuals who are certified pursuant to this section, may override a determination made by an individual certified under this section, and, if the Director of the Division of Water Quality determines that an individual is failing to make correct determinations, revoke the certification of that individual.

(b) The Division of Water Quality shall develop standard forms for use in making and reporting determinations. Each individual who is certified to make determinations under this section shall prepare a written report of each determination and shall submit the report to the agency that employs the individual. Each agency shall maintain reports of determinations made by its employees, shall forward a copy of each report to the Director of the Division of Water Quality, and shall maintain these reports and all other records related to determinations so that they will be readily accessible to the public."

SECTION 4.(b) In implementing the Surface Water Identification Training and Certification Program established by G.S. 143-214.25A, as enacted by Section 4(a) of this act, the Division of Water Quality of the Department of Environment and Natural Resources shall give priority to training and certifying the most highly qualified and experienced personnel in each agency. The Division of Water Quality shall evaluate the effectiveness of the Surface Water Identification Training and Certification Program and shall submit an annual report of its findings and recommendations, if any, to the Environmental Review Commission on or before October 1 of each year. The Division of Water Quality shall submit the first report required by this section on or before October 1, 2011.

SECTION 4.(c) Sections 4(a), 4(b), and 4(c) of this act shall not be construed to obligate the General Assembly to appropriate any funds to implement the provisions of this act. Every agency to which this section applies shall implement the provisions of this act with funds otherwise appropriated or available to the agency.

SECTION 5. G.S. 143-215.1C(a) reads as rewritten:

"(a) Report to Wastewater System Customers. – The owner or operator of any wastewater collection or treatment works, the operation of which is primarily to collect or treat municipal or domestic wastewater and for which a permit is issued under this ~~Part,~~ Part and having an average annual flow greater than 200,000 gallons per day, shall provide to the users or customers of the collection system or treatment works and to the Department an annual

report that summarizes the performance of the collection system or treatment works and the extent to which the collection system or treatment works has violated the permit or federal or State laws, regulations, or rules related to the protection of water quality. The report shall be prepared on either a calendar or fiscal year basis and shall be provided no later than 60 days after the end of the calendar or fiscal year."

SECTION 6. G.S. 143-215.112(d)(1a) reads as rewritten:

"(1a) Each governing body, or its authorized agent, shall have the power to assess civil penalties under G.S. 143-215.114A. Any person assessed shall be notified of the assessment by registered or certified mail, and the notice shall specify the reasons for the assessment. If the person assessed fails to pay the amount of the assessment to the governing body or its authorized agent within 30 days after receipt of notice, or such longer period not to exceed 180 days as the governing body or its authorized agent may specify, the governing body may institute a civil action in the superior court of the county in which the violation occurred, to recover the amount of the assessment. If any action or failure to act for which a penalty may be assessed under this section is continuous, the governing body or its authorized agent may assess a penalty not to exceed ~~ten thousand dollars ($10,000)~~ twenty-five thousand dollars ($25,000) per day for so long as the violation continues. In determining the amount of the penalty, the governing body or its authorized agent shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, and the amount of money the violator saved by not having made the necessary expenditures to comply with the appropriate pollution control requirements."

SECTION 7.(a) The title of Part 17A of Article 7 of Chapter 143B of the General Statutes reads as rewritten:

"Part 17A. ~~North Carolina National Park, Parkway and Forests Development Council.~~Western North Carolina Public Lands Council."

SECTION 7.(b) G.S. 143B-324.1 reads as rewritten:

"**§ 143B-324.1. ~~North Carolina National Park, Parkway and Forests Development Council;~~ Western North Carolina Public Lands Council creation; powers; duties.**

The ~~North Carolina National Park, Parkway and Forests Development Council~~ Western North Carolina Public Lands Council is created within the Department of Environment and Natural Resources. The Council shall:

...."

SECTION 7.(c) G.S. 143B-324.2 reads as rewritten:

...."

"**§ 143B-324.2. ~~North Carolina National Park, Parkway and Forests Development Council~~ Western North Carolina Public Lands Council members; selection; officers; removal; compensation; quorum; services.**

(a) Members; selection; and terms of service. – The ~~North Carolina National Park, Parkway and Forests Development Council~~ Western North Carolina Public Lands Council within the Department of Environment and Natural Resources shall consist of seven members appointed by the Governor. The composition of the Council shall be as follows:

(1) ~~one~~ One member shall be a resident of Buncombe ~~County,~~ County.

(2) ~~one~~ One member shall be a resident of Haywood ~~County,~~ County.

(3) ~~one~~ One member shall be a resident of Jackson ~~County,~~County.

(4) ~~one~~ One member shall be a resident of Swain ~~County,~~County.

(5) One member shall be a resident of Cherokee County.

(6) ~~three~~ Two members shall be residents of counties adjacent to the Blue Ridge Parkway, the Great Smoky Mountains National Park or the Pisgah or Nantahala national forests.

The appointment of members shall be for terms of four years, or until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

(b) Officers. – The Council shall elect a ~~chairman,~~chair, a ~~vice-chairman~~ vice-chair, and a secretary. The ~~chairman and the vice-chairman~~chair and vice-chair shall all be members of the Council, but the secretary need not be a member of the Council. These officers shall perform the duties usually pertaining to such offices and when elected shall serve for a period of one year, but may be reelected. In case of vacancies by resignation or death, the office shall be filled by the Council for the unexpired term of said officer.

(c) Removal. – The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

(d) Compensation. – Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5 and G.S. 143B-15 of the Executive Organization Act of 1973.

(e) Quorum. – Five members of the Council shall constitute a quorum for the transaction of business."

SECTION 7.(d) G.S. 143B-324.3 reads as rewritten:

"**§ 143B-324.3. ~~North Carolina National Park, Parkway and Forests Development Council~~ Western North Carolina Public Lands Council meetings.**

The ~~North Carolina National Park, Parkway and Forests Development Council~~ Western North Carolina Public Lands Council shall meet monthly and may hold special meetings at any time and place within the State at the call of the ~~chairman~~ chair or upon written request of at least a majority of the members."

SECTION 7.(e) G.S. 143B-432(a) reads as rewritten:

"(a) The Division of Economic Development of the Department of Natural and Economic Resources, the Science and Technology Committee of the Department of Natural and Economic Resources, the Science and Technology Research Center of the Department of Natural and Economic Resources, and the ~~North Carolina National Park, Parkway and Forests Development Council~~Western North Carolina Public Lands Council of the Department of Natural and Economic Resources are each hereby transferred to the Department of Commerce by a Type I transfer, as defined in G.S. 143A-6."

SECTION 7.(f) G.S. 143B-433 reads as rewritten:

"**§ 143B-433. Department of Commerce – organization.**

The Department of Commerce shall be organized to include:

(1) The following agencies:

...

p. ~~North Carolina National Park, Parkway and Forests Development Council.~~Western North Carolina Public Lands Council.

...."

SECTION 7.(g) G.S. 153B-3(d) reads as rewritten:

"(d) Membership. – The Commission shall consist of 17 members as follows:

...

(4) One member to represent the ~~North Carolina National Parks, Parkway and Forests Development Council.~~Western North Carolina Public Lands Council.

...."

SECTION 8. G.S. 143-355.2(h1) reads as rewritten:

"(h1) A trade or professional organization representing commercial car washes may establish a voluntary water conservation and water use efficiency certification program to encourage and promote the use of year-round water conservation and water use efficiency ~~measures~~ measures. Implementation of a voluntary water conservation and water use efficiency program shall be considered in determining compliance with local government water shortage response plans as follows:

(1) A water conservation and water use efficiency certification may only be issued to a person that demonstrates ~~that water use from its water consuming processes is reduced by and maintained at twenty percent (20%) or more below the yearly average water use for the calendar year preceding application for certification.~~ full implementation of a voluntary water conservation and water use efficiency program that is approved pursuant to subdivision (3) of this subsection. In order to receive and maintain certification, a person must have its facility inspected on an annual basis by a licensed plumbing contractor who will confirm that the applicant is in compliance with the standards of the certification program.

(2) A unit of local government that provides public water service or a large community water system shall recognize and credit a commercial car wash that has met the standards of a certification program for at least six months prior to the most recent extreme drought designation for water conservation achieved under the program. To the extent that a tiered response stage in the water shortage response plan requires commercial or industrial users to implement a percentage reduction in use, a car wash certified under a program shall be credited with the percentage reduction achieved by measures implemented under the program. Car washes certified under a program shall not be required to reduce consumption more than any other class of commercial or industrial water users during a water shortage emergency.

(3) To qualify as an approved water conservation and water use efficiency certification program, the Department of Environment and Natural Resources shall determine that the program ~~effectively utilizes industry best management practices for the efficient use of water and~~ achieves year-round reductions in water ~~use.~~ use and results in a reduction of twenty percent (20%) or more in average water use per vehicle. Best management practices may include, but are not limited to, recycling, reclaiming, or reusing a portion of the water in the consuming processes. If a unit of local government that provides public water service or a large community water system determines that a person certified under such a program is not complying with the terms and standards of the certification program, it may refuse to recognize and credit the conservation measures."

SECTION 9. G.S. 143-355.6 reads as rewritten:

"**§ 143-355.6. Enforcement.**

(a) The Secretary may assess a civil penalty of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) against any person who:

(1) Fails to report water use or other information required under G.S. 143-355(k).

(2) Fails to act in accordance with the terms, conditions, or requirements of an order issued by the Secretary under G.S. 143-355.3.

(3) Violates any provision of this Article or any rule adopted by the Commission, the Department, or the Secretary implementing this Article.

(b) For each willful action or failure to act for which a penalty may be assessed under this section, the Secretary may consider each day the action or inaction continues after notice is given of the violation as a separate violation. A separate penalty may be assessed for each separate violation.

(c) The Secretary may assess a civil penalty of not more than ten thousand dollars ($10,000) per month against a unit of local government that provides public water service or a large community water system that fails to implement the water conservation measures set out in the water shortage response plan approved by the Department under G.S. 143-355.2, measures required by the Department under subsections (b) and (d) of G.S. 143-355.2, or the default measures required under rules adopted by the Commission under S.L. 2002-167. ~~The Secretary may remit a civil penalty based on the factors set out in G.S. 143B-282.1(c)(1).~~

(c1) The amount of the civil penalty shall be based on the factors set out in G.S. 143B-282.1(b). The procedures set out in G.S. 143B-282.1 shall apply to civil penalty assessments that are presented to the Commission for final agency decision.

(c2) Requests for remission of civil penalties shall be filed with the Secretary. Remission requests shall not be considered unless made within 30 days of receipt of the notice of assessment. Remission requests must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B of the General Statutes and a stipulation of the facts on which the assessment was based. Consistent with the limitations in G.S. 143B-282.1(c) and (d), remission requests may be resolved by the Secretary and the violator. If the Secretary and the violator are unable to resolve the request, the Secretary shall deliver remission requests and the Secretary's recommended action to the Committee on Civil Penalty Remissions of the Commission appointed pursuant to G.S. 143B-282.1(c).

(c3) If any civil penalty has not been paid within 30 days after the notice of assessment has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or in which the violator's principal place of business is located to recover the amount of the assessment, unless the violator contests the assessment as provided in subsection (e) of this section, or requests remission of the assessment in whole or in part as provided in subsection (c2) of this section. If any civil penalty has not been paid within 30 days after the final agency decision or court order has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or in which the violator's principal place of business is located to recover the amount of the assessment.

(d) The violation of emergency water conservation rules adopted by the Secretary pursuant to G.S. 143-355.3(b) is a Class 1 misdemeanor.

(e) The Secretary shall notify any person assessed a civil penalty of the assessment and the specific reasons for the assessment by registered or certified mail or by any means authorized by G.S. 1A-1, Rule 4. Contested case petitions shall be filed within 30 days of receipt of the notice of assessment.

(f) The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

SECTION 10. G.S. 143B-299(a) reads as rewritten:

"(a) Creation; Membership. – There is hereby created in the Department of Environment and Natural Resources the North Carolina Sedimentation Control Commission, which is charged with the duty of developing and administering the sedimentation control program provided for in this Article. The Commission shall consist of the following members:

(1) A person to be nominated jointly by the boards of the North Carolina League of Municipalities and the North Carolina Association of County ~~Commissioners;~~Commissioners.

(2) A person to be nominated by the Board of the North Carolina Home Builders ~~Association;~~Association.

(3) A person to be nominated by the Carolinas Branch, Associated General Contractors of ~~America;~~America.

(4) ~~The president, vice president, or general counsel~~A representative of a North Carolina public utility ~~company;~~company.

(5) The Director of the North Carolina Water Resources Research ~~Institute;~~Institute.

(6) A member of the State Mining Commission who shall be a representative of nongovernmental conservation interests, as required by ~~G.S. 74-38(b);~~G.S. 74-38(b).

(7) A member of the State Soil and Water Conservation ~~Commission;~~Commission.

(8) A member of the Environmental Management ~~Commission;~~Commission.

(9) A soil scientist from the faculty of North Carolina State ~~University;~~University.

(10) Two persons who shall be representatives of nongovernmental conservation ~~interests; and~~interests.

(11) A professional engineer registered under the provisions of Chapter 89C of the General Statutes nominated by the Professional Engineers of North Carolina, Inc."

SECTION 11.(a) G.S. 153A-102.1 reads as rewritten:

"**§ 153A-102.1. ~~Electronic notice~~Notice of new fees and fee increases; public comment period.**

(a) ~~If a county has a Web site maintained by one or more of its employees, the~~A county shall provide notice to interested parties of the imposition of or increase in fees or charges applicable solely to the construction of development subject to the provisions of Part 2 of Article 18 of this Chapter ~~on the county's Web site~~ at least seven days prior to the first meeting where the imposition of or increase in the fees or charges is on the agenda for consideration. The county shall employ at least two of the following means of communication in order to provide the notice required by this section:

(1) Notice of the meeting in a prominent location on a Web site managed or maintained by the county.

(2) Notice of the meeting in a prominent physical location, including, but not limited to, any government building, library, or courthouse within the county.

(3) Notice of the meeting by electronic mail to a list of interested parties that is created by the county for the purpose of notification as required by this section.

(4) Notice of the meeting by facsimile to a list of interested parties that is created by the county for the purpose of notification as required by this section.

(a1) If a county manages or maintains a Web site, it may provide the notice required pursuant to G.S. 160A-4.1, 130A-64.1, or 162A-9 on its Web site at the request of a city, sanitary district, or water and sewer authority that does not manage or maintain a Web site of its own. Any county that elects to provide such notice shall post the notice to its Web site within seven days of the request made by the city, sanitary district, or water and sewer authority.

(b) During the consideration of the imposition of or increase in fees or charges as provided in subsection (a) of this section, the governing body of the county shall permit a period of public comment.

(c) This section shall not apply if the imposition of or increase in fees or charges is contained in a budget filed in accordance with the requirements of G.S. 159-12."

SECTION 11.(b) G.S. 160A-4.1 reads as rewritten:

"**§ 160A-4.1. ~~Electronic notice~~ Notice of new fees and fee increases; public comment period.**

(a) ~~If a city has a Web site maintained by one or more of its employees, the~~A city shall provide notice to interested parties of the imposition of or increase in fees or charges applicable solely to the construction of development subject to the provisions of Part 2 of Article 19 of this Chapter ~~on the city's Web site~~ at least seven days prior to the first meeting where the imposition of or increase in the fees or charges is on the agenda for consideration. The city shall employ at least two of the following means of communication in order to provide the notice required by this section:

(1) Notice of the meeting in a prominent location on a Web site managed or maintained by the city.

(2) Notice of the meeting in a prominent physical location, including, but not limited to, any government building, library, or courthouse within the city.

(3) Notice of the meeting by electronic mail to a list of interested parties that is created by the city for the purpose of notification as required by this section.

(4) Notice of the meeting by facsimile to a list of interested parties that is created by the city for the purpose of notification as required by this section.

(a1) If a city does not maintain its own Web site, it may employ the notice option provided by subdivision (1) of subsection (a) of this section by submitting a request to a county or counties in which the city is located to post such notice in a prominent location on a Web site that is maintained by the county or counties. Any city that elects to provide such notice shall make its request to the county or counties at least 15 days prior to the date of the first meeting where the imposition of or increase in the fees or charges is on the agenda for consideration.

(b) During the consideration of the imposition of or increase in fees or charges as provided in subsection (a) of this section, the governing body of the city shall permit a period of public comment.

(c) This section shall not apply if the imposition of or increase in fees or charges is contained in a budget filed in accordance with the requirements of G.S. 159-12."

SECTION 11.(c) G.S. 130A-64.1 reads as rewritten:

"**§ 130A-64.1. ~~Electronic notice~~Notice of new or increased charges and rates; public comment period.**

(a) ~~If a sanitary district has a Web site maintained by one or more of its employees, the~~A sanitary district shall provide notice to interested parties of the imposition of or increase in service charges or rates applicable solely to the construction of development subject to Part 2 of Article 19 of Chapter 160A or Part 2 of Article 18 of Chapter 153A of the General Statutes for any service provided by the sanitary district ~~on the sanitary district's Web site~~ at least seven days prior to the first meeting where the imposition of or increase in the charges or rates is on the agenda for consideration. The sanitary district shall employ at least two of the following means of communication in order to provide the notice required by this section:

(1) Notice of the meeting in a prominent location on a Web site managed or maintained by the sanitary district.

(2) Notice of the meeting in a prominent physical location, including, but not limited to, the district's headquarters or any government building, library, or courthouse located within the sanitary district.

(3) Notice of the meeting by electronic mail to a list of interested parties that is created by the sanitary district for the purpose of notification as required by this section.

(4) Notice of the meeting by facsimile to a list of interested parties that is created by the sanitary district for the purpose of notification as required by this section.

(a1) If a sanitary district does not maintain its own Web site, it may employ the notice option provided by subdivision (1) of subsection (a) of this section by submitting a request to a county or counties in which the district is located to post such notice in a prominent location on a Web site that is maintained by the county or counties. Any sanitary district that elects to provide such notice shall make its request to the county or counties at least 15 days prior to the date of the first meeting where the imposition of or increase in the fees or charges is on the agenda for consideration.

(b) During the consideration of the imposition of or increase in service charges or rates as provided in subsection (a) of this section, the governing body of the sanitary district shall permit a period of public comment.

(c) This section shall not apply if the imposition of or increase in service charges or rates is contained in a budget filed in accordance with the requirements of G.S. 159-12."

SECTION 11.(d) G.S. 162A-9 reads as rewritten:

"**§ 162A-9. Rates and charges; ~~electronic~~ notice; contracts for water or services; deposits; delinquent charges.**

(a) An authority may establish and revise a schedule of rates, fees, and other charges for the use of and for the services furnished or to be furnished by any water system or sewer system or parts thereof owned or operated by the authority. The rates, fees, and charges established under this subsection are not subject to supervision or regulation by any bureau, board, commission, or other agency of the State or of any political subdivision.

Before an authority sets or revises rates, fees, or other charges for stormwater management programs and structural or natural stormwater and drainage system service, the authority shall hold a public hearing on the matter. At least seven days before the hearing, the authority shall publish notice of the public hearing in a newspaper having general circulation in the area. An authority may impose rates, fees, or other charges for stormwater management programs and stormwater and drainage system service on a person even though the person has not entered into a contract to receive the service.

Rates, fees, and charges shall be fixed and revised so that the revenues of the authority, together with any other available funds, will be sufficient at all times:

(1) To pay the cost of maintaining, repairing, and operating the systems or parts thereof owned or operated by the authority, including reserves for such purposes, and including provision for the payment of principal of and interest on indebtedness of a political subdivision or of political subdivisions which payment shall have been assumed by the authority, and

(2) To pay the principal of and the interest on all bonds issued by the authority under the provisions of this Article as the same shall become due and payable and to provide reserves therefor.

The fees established under this subsection must be made applicable throughout the service area. Schedules of rates, fees, charges, and penalties for providing stormwater management programs and structural and natural stormwater and drainage system service may vary according to whether the property served is residential, commercial, or industrial property, the property's use, the size of the property, the area of impervious surfaces on the property, the quantity and quality of the runoff from the property, the characteristics of the watershed into which stormwater from the property drains, and other factors that affect the stormwater drainage system. Rates, fees, and charges imposed under this subsection for stormwater management programs and stormwater and drainage system service may not exceed the authority's cost of providing a stormwater management program and a structural and natural stormwater and drainage system. The authority's cost of providing a stormwater management

program and a structural and natural stormwater and drainage system includes any costs necessary to assure that all aspects of stormwater quality and quantity are managed in accordance with federal and State laws, regulations, and rules.

No stormwater utility fee may be levied under this subsection whenever two or more units of local government operate separate stormwater management programs or separate structural and natural stormwater and drainage system services in the same area within a county. However, two or more units of local government may allocate among themselves the functions, duties, powers, and responsibilities for jointly operating a stormwater management program and structural and natural stormwater and drainage system service in the same area within a county, provided that only one unit may levy a fee for the service within the joint service area. For purposes of this subsection, a unit of local government shall include a regional authority providing stormwater management programs and structural and natural stormwater and drainage system services.

(a1) ~~If an authority has a Web site maintained by one or more of its employees, the~~ An authority shall provide notice to interested parties of the imposition of or increase in rates, fees, and charges under subsection (a) of this section applicable solely to the construction of development subject to Part 2 of Article 19 of Chapter 160A or Part 2 of Article 18 of Chapter 153A of the General Statutes ~~on the authority's Web site~~ at least seven days prior to the first meeting where the imposition of or increase in the rates, fees, and charges is on the agenda for consideration. The authority shall employ at least two of the following means of communication in order to provide the notice required by this subsection:

(1) Notice of the meeting in a prominent location on a Web site managed or maintained by the authority.

(2) Notice of the meeting in a prominent physical location, including, but not limited to, the authority's headquarters or any government building, library, or courthouse located within the authority's service area.

(3) Notice of the meeting by electronic mail to a list of interested parties that is created by the authority for the purpose of notification as required by this section.

(4) Notice of the meeting by facsimile to a list of interested parties that is created by the authority for the purpose of notification as required by this section.

(a2) If an authority does not maintain its own Web site, it may employ the notice option provided by subdivision (1) of subsection (a1) of this section by submitting a request to a county or counties in which the authority is located to post such notice in a prominent location on a Web site that is maintained by the county or counties. Any authority that elects to provide such notice shall make its request to the county or counties at least 15 days prior to the date of the first meeting where the imposition of or increase in the fees or charges is on the agenda for consideration.

(a3) During the consideration of the imposition of or increase in rates, fees, or charges under this subsection, the authority shall permit a period of public comment.

(a4) ~~This subsection~~ The notice requirements in subsection (a1) of this section shall not apply if the imposition of or increase in rates, fees, and charges is contained in a budget filed in accordance with the requirements of G.S. 159-12.

(b) Notwithstanding any of the foregoing provisions of this section, the authority may enter into contracts relating to the collection, treatment or disposal of sewage or the purchase or sale of water which shall not be subject to revision except in accordance with their terms.

(c) In order to insure the payment of such rates, fees and charges as the same shall become due and payable, the authority may do the following in addition to exercising any other remedies which it may have:

(1) Require reasonable advance deposits to be made with it to be subject to application to the payment of delinquent rates, fees and charges.
(2) At the expiration of 30 days after any rates, fees and charges become delinquent, discontinue supplying water or the services and facilities of any water system or sewer system of the authority.
(3) Specify the order in which partial payments are to be applied when a bill covers more than one service."

SECTION 12. Section 4 of S.L. 2005-190, as amended by Section 31 of S.L. 2006-259, reads as rewritten:

"**SECTION 4. Other drinking water supply reservoirs.** – The Environmental Management Commission shall not make any new or increased nutrient loading allocation to any person who is required to obtain a permit under G.S. 143-215 for an individual wastewater discharge directly or indirectly into any impaired drinking water supply reservoir for which the Division of Water Quality of the Department of Environment and Natural Resources has prepared or updated a calibrated nutrient response model since 1 July 2002 until permanent rules adopted by the Commission to implement the nutrient management strategy for that reservoir become effective. The Commission shall report its progress in developing and implementing nutrient management strategies for reservoirs to which this section applies to the Environmental Review Commission by 1 April of each year beginning 1 April 2006."

SECTION 13.(a) The Wood and Crop Biomass Strategic Working Group is established. The Working Group shall identify, study, and recommend a comprehensive package of appropriate and targeted policies and financial incentives in order to do all of the following:

(1) Ensure a reliable supply of sustainably managed wood and crop biomass for energy purposes and other sectors.
(2) Develop economic opportunities for rural communities.
(3) Enhance natural resources and promote farm and forestland retention.
(4) Integrate wood and crop biomass into the State's comprehensive energy plan, as recommended by the Energy Policy Council.

SECTION 13.(b) The Wood and Crop Biomass Strategic Working Group shall be convened jointly by the Biofuels Center of North Carolina, the Department of Commerce, the Department of Environment and Natural Resources, and the North Carolina Solar Center at North Carolina State University. The Working Group shall consist of 20 members as follows:

(1) The President of the Biofuels Center of North Carolina or the President's designee.
(2) The Secretary of Commerce or the Secretary's designee.
(3) The Secretary of Environment and Natural Resources or the Secretary's designee.
(4) The Executive Director of the North Carolina Solar Center at North Carolina State University or the Executive Director's designee.
(5) The Commissioner of Agriculture or the Commissioner's designee.
(6) The President of the North Carolina Biotechnology Center or the President's designee.
(7) The President of Duke Power or the President's designee.
(8) The President of Progress Energy or the President's designee.
(9) The Director of the Southeast Office of Environmental Defense or the Director's designee.
(10) The President of the North Carolina Farm Bureau Federation or the President's designee.
(10a) Two members who are farmers, to be appointed by the President of the North Carolina Farm Bureau Federation.

(11) The President of the North Carolina Forestry Association or the President's designee.

(11a) Two members who are forest landowners, to be appointed by the President of the North Carolina Forestry Association.

(12) The Director of the North Carolina Division of Forest Resources of the Department of Environment and Natural Resources or the Director's designee.

(13) The Executive Director of the North Carolina Chapter of The Nature Conservancy or the Executive Director's designee.

(14) The President of Novozymes North America or the President's designee.

(15) The Executive Director of the North Carolina Sustainable Energy Association or the Executive Director's designee.

(16) The Executive Director of the North Carolina Conservation Network or the Executive Director's designee.

SECTION 13.(c) The Wood and Crop Biomass Strategic Working Group shall meet monthly or upon the call of the conveners beginning no later than August 1, 2010. Members of the Working Group shall not receive a salary. Members of the Working Group shall not receive per diem and travel expenses for their service on the Working Group. Staff and administrative assistance to the Working Group shall be provided by the Biofuels Center of North Carolina. The authority granted to the Working Group shall be advisory in nature and in no way shall the Working Group be construed to have any regulatory authority.

SECTION 13.(d) The Wood and Crop Biomass Strategic Working Group shall submit an interim report of its findings and recommendations to the Environmental Review Commission, the Senate and the House of Representatives Appropriations Subcommittees on Natural and Economic Resources, and the Energy Policy Council no later than February 1, 2011. A final report containing findings, recommendations, and any legislative proposals shall be submitted by the Working Group no later than May 1, 2011.

SECTION 14.(a) The Department of Administration, the Department of Agriculture and Consumer Services, the Department of Commerce, the Department of Crime Control and Public Safety, the Department of Environment and Natural Resources, the Department of Health and Human Services, the Department of Insurance, and the Department of Transportation shall:

(1) Review their respective planning and regulatory programs to determine whether the programs currently consider the impacts of global climate change, including adaptation and sea level rise.

(2) For those programs that currently consider the impacts of global climate change, the agency shall describe how the program considers the impacts of global climate change, including adaptation and sea level rise, and recommend whether the consideration of the impacts of global climate change should be modified or expanded.

(3) For those programs that do not currently consider the impacts of global climate change, the agency shall recommend if and how the program should consider the impacts of global climate change, including adaptation and sea level rise.

SECTION 14.(b) No later than September 1, 2011, each State agency shall report the results of its review and any recommendations to the Department of Environment and Natural Resources. The Department shall compile the results and recommendations and report them to the Environmental Review Commission and to any future legislative commission that directly and primarily addresses issues concerning global climate change no later than November 1, 2011.

SECTION 15.(a) Article 9 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 7. Management of Certain Products That Contain Mercury.

"**§ 130A-310.60. Recycling required by public agencies.**

(a) Each State agency, including the General Assembly, the General Court of Justice, universities, community colleges, public schools, and political subdivisions using State funds shall establish a program in cooperation with the Department of Environment and Natural Resources and the Department of Administration for the collection and recycling of all spent fluorescent lights and thermostats that contain mercury generated in public buildings. The program shall include procedures for convenient collection, safe storage, and proper recycling of spent fluorescent lights and thermostats that contain mercury and contractual or other arrangements with buyers of the recyclable materials.

(b) Each State agency, including the General Assembly, the General Court of Justice, universities, community colleges, the Department of Public Instruction on behalf of the public schools, and political subdivisions shall submit a report on or before December 1, 2011, that documents the entity's compliance with the requirements of subsection (a) of this section to the Department of Environment and Natural Resources and the Department of Administration. The Departments shall compile the information submitted and jointly shall submit a report to the Environmental Review Commission on or before January 15, 2012, concerning the activities required by subsection (a) of this section. The information provided shall also be included in the report required by G.S. 130A-309.06(c).

"**§ 130A-310.61. Removal and recycling of mercury-containing products from structures to be demolished.**

Prior to demolition of any building or structure in the State, the contractor responsible for the demolition activity or the owner of the building or structure to be demolished shall remove all fluorescent lights and thermostats that contain mercury from the building or structure to be demolished."

SECTION 15.(b) G.S. 130A-309.10 is amended by adding a new subsection to read:

"(m) No person shall knowingly dispose of fluorescent lights and thermostats that contain mercury in a sanitary landfill for the disposal of construction and demolition debris waste that is unlined or in any other landfill that is unlined."

SECTION 15.(c) G.S. 130A-22 reads as rewritten:

"**§ 130A-22. Administrative penalties.**

(a) The Secretary of Environment and Natural Resources may impose an administrative penalty on a person who violates Article 9 of this Chapter, rules adopted by the Commission pursuant to Article 9, or any term or condition of a permit or order issued under Article 9. Each day of a continuing violation shall constitute a separate violation. The penalty shall not exceed fifteen thousand dollars ($15,000) per day in the case of a violation involving nonhazardous waste. The penalty shall not exceed thirty-two thousand five hundred dollars ($32,500) per day in the case of a first violation involving hazardous waste as defined in G.S. 130A-290 or involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical waste entering waters or lands of the State; and shall not exceed fifty thousand dollars ($50,000) per day for a second or further violation involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical waste entering waters or lands of the State. The penalty shall not exceed thirty-two thousand five hundred dollars ($32,500) per day for a violation involving a voluntary remedial action implemented pursuant to G.S. 130A-310.9(c) or a violation of the rules adopted pursuant to G.S. 130A-310.12(b). The penalty shall not exceed one hundred dollars ($100.00) for a first violation; two hundred dollars ($200.00) for a second violation within any 12-month period; and five hundred dollars ($500.00) for each additional violation within any 12-month period for

any violation of Part 2G of Article 9 of this Chapter. The penalty shall not exceed one hundred dollars ($100.00) for a first violation; two hundred dollars ($200.00) for a second violation within any 12-month period; and five hundred dollars ($500.00) for each additional violation within any 12-month period for any violation of Part 7 of Article 9 of this Chapter and G.S. 130A-309.10(m). If a person fails to pay a civil penalty within 60 days after the final agency decision or court order has been served on the violator, the Secretary of Environment and Natural Resources shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment. Such civil actions must be filed within three years of the date the final agency decision or court order was served on the violator."

SECTION 15.(d) G.S. 130A-25 reads as rewritten:

"**§ 130A-25. Misdemeanor.**

(a) ~~A~~ Except as otherwise provided, a person who violates a provision of this Chapter or the rules adopted by the Commission or a local board of health shall be guilty of a misdemeanor.

...

(d) A violation of Part 7 of Article 9 of this Chapter or G.S. 130A-309.10(m) shall be punishable as a Class 3 misdemeanor."

SECTION 16. The Environmental Review Commission may study the penalties applicable to violations of G.S 130A-309.10 (Prohibited acts related to packaging; coded labeling of plastic containers required; disposal of certain solid wastes in landfills or by incineration prohibited), and report its findings, together with any recommended legislation, to the 2011 Regular Session of the 2011 General Assembly upon its convening.

SECTION 17. G.S. 143-355.4(a) reads as rewritten:

"(a) Local government water systems and large community water systems shall require separate meters for new in-ground irrigation systems on lots platted after July 1, 2009, that are connected to their systems."

SECTION 18. Section 6 of this act becomes effective October 1, 2010 and applies to violations that occur on or after that date. Section 9 of this act becomes effective October 1, 2010, and applies to penalties assessed on or after that date. Sections 11(a), 11(b), 11(c), and 11(d) of this act become effective February 1, 2011. Sections 15(a), 15(b), 15(c), and 15(d) of this act become effective December 1, 2010. All other sections of this act are effective when this act becomes law.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representatives Underhill, Harrison, and Tarleton, (Vice-Chairs) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☐ Committee Substitute for

HB 1766 A BILL TO BE ENTITLED AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS TO (1) PROVIDE THAT THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES MAY DESIGNATE MULTIPLE MEMBERS TO SERVE AS COCHAIRS OF THE ENVIRONMENTAL REVIEW COMMISSION; (2) REPEAL THE REQUIREMENT THAT REMEDIAL ACTION PLANS MUST BE RECORDED IN THE REGISTER OF DEEDS OFFICE AND MODIFY THE REQUIREMENT THAT REMEDIAL ACTION PLANS MUST BE PLACED IN EACH PUBLIC LIBRARY IN THE COUNTY; (3) REESTABLISH THE SURFACE WATER IDENTIFICATION TRAINING AND CERTIFICATION PROGRAM AS A COMPONENT OF THE RIPARIAN BUFFER PROTECTION PROGRAM; (4) AMEND CIVIL PENALTIES FOR CERTAIN AIR QUALITY VIOLATIONS TO CONFORM WITH CHANGES MADE IN S.L. 2007-296; (5) AMEND REPORTING REQUIREMENTS FOR SMALL WASTEWATER SYSTEMS; (6) AMEND THE ENFORCEMENT AUTHORITY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES UNDER THE DROUGHT MANAGEMENT PREPAREDNESS AND RESPONSE ACT; AND (7) PROVIDE THAT THE PROHIBITION ON ANY NEW OR INCREASED NUTRIENT LOADING ALLOCATION APPLIES TO IMPAIRED DRINKING WATER SUPPLY RESERVOIRS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☒ With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on FINANCE.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

July 1, 2010

SPEAKERS: PLEASE SIGN IN BELOW

Name & Title	Representing (Agency/Company)	Bill #	Support/ Oppose
Bob Slocum	NC Forestry Assoc.	1766	
Peter Ott	American Rivers	1766	
Lisa Martin	NC Homebuilders	Amend	

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — July 1, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lisa Martin	NCHBA
TYLER NEWMAN	BASE
L. Andrews	NCFB
Tommy Stevens	NCPC
DAVID BARNES	Poyner Spruill
Jerry Hodges	J Warren Vass
David Crawford	AIA NC
Ruth Brown	Weyerhaeuser Co.
Bob Slocum	NCFA
Lee-Ann Chapman	NCIC
Cindy	Biofuels Ctr of NC

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — July 1, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Weatherly Rose	Hunton & Williams
Whitney Campbell	Jordan Price
Vern Cox	NCDA&CS
Steve Wall	Biotech Center
Brian Bemtzel	MWC
Sheila Holman	NCDENR-DAQ
Sushma Masemore	NCDENR-DAQ
John Goodman	NC Chamber
Jay Stem	NCAA
	Edelman
Jessi Hays	NCHBA

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — July 1, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Doug Lassiter	NCSTA
Gary Harris	NCPCM / NC Env Work Assoc
Rick Zechini	
Scott Common	Duke Energy
George Crocker	" "
Ed Fuhrer	Brooks Pierce
Andrew Lynch	NCLM
Kathryn Westcott	AREINC
	NCAEC
Patrick Buffkin	NCAEC

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — July 1, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Margaret Hartzell	Environment North Carolina
Anthony M Allow	NCACC
Butch Gunnells	NCBA
Craig McAllister	NC Landscape Board
Hassan Khan	"
Beatrice Williams	CUCA
Sage Bagel	intern – Rep Martin.
	BOS
	NCPW
John Monaghan	Piedmont Natural Gas
Colleen Kocharek	Kocharek Law Group

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — July 1, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
T REEDER	NC DWR
Cyndi Karoly	NC DWQ
Coleen Sullins	DENR/DWQ
Matt Matthews	DENR/DWQ
Nick Tobin	NCLM
Harrison Kamm	NCCN
Cathy Hilt	DENR
Elizabeth Biser	DENR
Dexter Matthews	DENR Waste Management
Scott Mouw	DENR
Peter Raabe	American Rivers

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — July 1, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Dana Fenton	City of Charlotte

HOUSE PAGES

ENVIRONMENT + NATURAL RESOURCES
NAME OF COMMITTEE _____ DATE 7-1-10

1. Name: Syaney Kalin
   County: Wake
   Sponsor: Dollar
2. Name: Taylor Jackson
   County: New Hanover
   Sponsor: Justice
3. Name: Kaitlin Phelps
   County: Gaston
   Sponsor: Neumann
4. Name: Taylor Trent
   County: Rockingham
   Sponsor: Cole
5. Name: _____
   County: _____
   Sponsor: _____

SGT-AT-ARM

1. Name: Judy Turner
2. Name: Earl Coker
3. Name: Bill Bass
4. Name: Trey Raley
5. NAME: Frank Prevo

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

JULY 7, 2010

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Wednesday, July 7, 2010, in room 643 of the Legislative Office Building with Representative Cullie Tarleton presiding. Members present were: Representatives Gillespie, Vice-Chair; Representatives K. Alexander, Blackwood, Floyd, Gibson, Haire, Insko, Killian, May, McElraft, Samuelson, Tucker, and Womble.

Representative Tarleton called the meeting to order at 1:05 p.m. He began by introducing the pages for the day and the sergeant-at-arms staff assigned to the meeting (list attached).

The first item on the agenda was Senate Committee Substitute for HB 1743 - A BILL TO BE ENTITLED AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO DEVELOP BASINWIDE HYDROLOGIC MODELS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION. Representative Tarleton noted that this bill had been returned to the committee by the Senate asking for concurrence. Representative Crawford was recognized to explain that the resulting legislation was a composite of several bills relating to the same subject. Jeff Hudson, Committee Counsel, was called upon to provide details. Tom Reeder with the North Carolina Division of Water Resources assisted Representative Crawford and Jeff Hudson in addressing questions and concerns from committee members. At the conclusion of this, Representative Alexander made a motion for a recommendation that the House concur. This motion passed unanimously.

Next on the agenda was Senate Committee Substitute for HB 1802 - A BILL TO BE ENTITLED AN ACT TO AMEND OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES REPORTING REQUIREMENTS AND TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO VARIOUS LAWS RELATED TO THE ENVIRONMENT, ENERGY, AND NATURAL RESOURCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION. Representative Tarleton stated that HB 1802 had been returned to the committee requesting concurrence with the changes made by the Senate, which were explained by Representative Gibson. Representative Insko made a motion for a recommendation that the House concur. This motion passed without objection.

With no further business to come before the committee, the meeting was adjourned at 1:30 p.m.

Respectfully submitted,

Representative Cullie Tarleton, Chair

Shara Graham, Committee Assistant

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE

MEETING

July 7, 2010
1:00 P.M.
Room 643 LOB

Representative Tarleton, Chair

WELCOME AND OPENING REMARKS

INTRODUCTION OF PAGES AND SERGEANT-AT-ARMS

AGENDA ITEMS:

HB 1743 - Improve River Basin Modeling
Primary Sponsors: Reps. Crawford, Gillespie, Owens, Tarleton

HB 1802 - ENR Reports Consol./Tech. Corrects 2010
Primary Sponsors: Reps. Harrison, Gibson, Tarleton, Underhill

ADJOURNMENT

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 5

HOUSE BILL 1743*

Committee Substitute Favorable 5/26/10
Committee Substitute #2 Favorable 6/9/10
Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/29/10
Fifth Edition Engrossed 7/1/10

Short Title: Improve River Basin Modeling. (Public)

Sponsors:

Referred to:

May 18, 2010

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO DEVELOP BASINWIDE HYDROLOGIC MODELS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-350 reads as rewritten:

"**§ 143-350. Definitions.**

As used in this Article:

...

(3) "Essential water use" means the use of water necessary for firefighting, health, and safety; water needed to sustain human and animal life; and water necessary to satisfy federal, State, and local laws for the protection of public health, safety, welfare, the environment, and natural resources; and a minimum amount of water necessary to ~~maintain~~ support and sustain the economy of the State, region, or area.

...."

SECTION 2. G.S. 143-355 is amended by adding a new subsection to read:

"(o) Basinwide Hydrologic Models. – The Department shall develop a basinwide hydrologic model for each of the 17 major river basins in the State as provided in this subsection.

(1) Definitions. – As used in this subsection:

a. "Ecological flow" means the stream flow necessary to protect ecological integrity.

b. "Ecological integrity" means the ability of an aquatic system to support and maintain a balanced, integrated, adaptive community of organisms having a species composition, diversity, and functional organization comparable to prevailing ecological conditions and, when subject to disruption, to recover and continue to provide the natural goods and services that normally accrue from the system.

c. "Groundwater resource" means any water flowing or lying under the surface of the earth or contained within an aquifer.

d. "Prevailing ecological conditions" means the ecological conditions determined by reference to the applicable period of record of the United States Geological Survey stream gauge data, including data reflecting the ecological conditions that exist after the construction and operation of existing flow modification devices, such as dams, but excluding data collected when stream flow is temporarily affected by in-stream construction activity.

e. "Surface water resource" means any lake, pond, river, stream, creek, run, spring, or other water flowing or lying on the surface of the earth.

(2) Schedule. – The Department shall develop a schedule for basinwide hydrologic model development. In developing the schedule, the Department shall give priority to developing hydrologic models for river basins or portions of river basins that are experiencing or are likely to experience water supply shortages, where the ecological integrity is threatened or likely to become threatened, or for which an existing hydrologic model has not been developed by the Department or other persons or entities.

(3) Model. – Each basinwide hydrologic model shall:

a. Include surface water resources within the river basin, groundwater resources within the river basin to the extent known by the Department, transfers into and out of the river basin that are required to be registered under G.S. 143-215.22H, other withdrawals, ecological flow, instream flow requirements, projections of future withdrawals, an estimate of return flows within the river basin, inflow data, local water supply plans, and other scientific and technical information the Department deems relevant.

b. Be designed to simulate the flows of each surface water resource within the basin that is identified as a source of water for a withdrawal registered under G.S. 143-215.22H in response to different variables, conditions, and scenarios. The model shall specifically be designed to predict the places, times, frequencies, and intervals at which any of the following may occur:

1. Yield may be inadequate to meet all needs.
2. Yield may be inadequate to meet all essential water uses.
3. Ecological flow may be adversely affected.

c. Be based solely on data that is of public record and open to public review and comment.

(4) Ecological flow. – The Department shall characterize the ecology in the different river basins and identify the flow necessary to maintain ecological integrity. The Department shall create a Science Advisory Board to assist the Department in characterizing the natural ecology and identifying the flow requirements. The Science Advisory Board shall include representatives from the Divisions of Water Resources and Water Quality of the Department, the North Carolina Wildlife Resources Commission, the North Carolina Marine Fisheries Commission, and the Natural Heritage Program. The Department shall also invite participation by the United States Fish and Wildlife Service; the National Marine Fisheries Service; representatives of organizations representing agriculture, forestry, manufacturing, electric public utilities, and local governments, with expertise in aquatic ecology and habitat; and other individuals or organizations with expertise in aquatic ecology and habitat. The Department shall ask the Science Advisory Board

to review any report or study submitted to the Department for consideration that is relevant to characterizing the ecology of the different river basins and identifying flow requirements for maintenance of ecological integrity. The Department shall consider such other information, including site specific analyses, that either the Board or the Department considers relevant to determining ecological flow requirements.

(5) Interstate cooperation. – To the extent practicable, the Department shall work with neighboring states to develop basinwide hydrologic models for each river basin shared by North Carolina and another state.

(6) Approval and modification of hydrologic models. –

a. Upon completion of a hydrologic model, the Department shall:

1. Submit the model to the Commission for approval.
2. Publish in the North Carolina Register notice of its recommendation that the Commission approve the model and of a 60-day period for providing comment on the model.
3. Provide electronic notice to persons who have requested electronic notice of the notice published in the North Carolina Register.

b. Upon receipt of a hydrologic model, the Commission shall:

1. Receive comment on the model for the 60-day period noticed in the North Carolina Register.
2. Act on the model following the 60-day comment period.

c. The Department shall submit any significant modification to an approved hydrologic model to the Commission for review and approval under the process used for initial approval of the model.

d. A hydrologic model is not a rule, and Article 2A of Chapter 150B of the General Statutes does not apply to the development of a hydrologic model.

(7) Existing hydrologic models. – The Department shall not develop a hydrologic model for a river basin for which a hydrologic model has already been developed by a person or entity other than the Department, if the Department determines that the hydrologic model meets the requirements of this subsection. The Department may adopt a hydrologic model that has been developed by another person or entity that meets the requirements of this subsection in lieu of developing a hydrologic model as required by this subsection. The Department may make any modifications or additions to a hydrologic model developed by another person or entity that are necessary to meet the requirements of this subsection.

(8) Construction of subsection. – Nothing in this subsection shall be construed to vary any existing, or impose any additional regulatory requirements, related to water quality or water resources.

(9) Report. – The Department shall report to the Environmental Review Commission on the development of basinwide hydrologic models no later than November 1, of each year."

SECTION 3. The first report required by G.S. 143-355(o), as enacted by Section 2 of this act, is due no later than November 1, 2011.

SECTION 4. This act is effective when it becomes law.

HOUSE BILL 1743:
Improve River Basin Modeling

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	July 7, 2010
Introduced by:	Reps. Crawford, Gillespie, Owens, Tarleton	**Prepared by:**	Jeff Hudson Committee Counsel
Analysis of:	Fifth Edition		

SUMMARY: House Bill 1743 would direct the Department of Environment and Natural Resources to develop hydrologic models for each of the State's 17 major river basins.[1]

BILL ANALYSIS:

House Bill 1743 would direct the Department of Environment and Natural Resources (DENR) to develop basinwide hydrologic models for each of the State's 17 major river basins. DENR would establish a schedule for developing the models and would give priority to those basins most likely to suffer water supply shortages or threats to ecological integrity or for which an existing hydrologic model hasn't been developed.

Each model would be designed to simulate water flows in response to different variables, conditions, and scenarios. Each model would specifically be designed to predict the places, times, frequencies, and intervals at which any of the following might occur:

Yield may be inadequate to meet all needs.

- Yield may be inadequate to meet all essential water uses.
- Ecological flow may be adversely affected.

With the assistance of a Science Advisory Board, DENR would characterize the natural ecology of the river basins and identify the flows necessary to maintain ecological integrity. DENR would submit completed models the Environmental Management Commission (EMC), to be adopted by the EMC following a public comment period. DENR would not develop a model for a river basin for which a model has already been developed if DENR determines that the model meets the requirements set out in the bill.

House Bill 1743 would also provide that the language governing the development of models would not vary any existing or impose any additional regulatory requirements.

EFFECTIVE DATE: This act is effective when it becomes law.

1743-SMSB-124(e5) v1

[1] H1743, as introduced by Representatives Crawford, Gillespie, Owens, and Tarleton, was DENR/LGC Evaluate Water System Operations, a recommendation of the Legislative Study Commission on Water and Wastewater Infrastructure.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representatives Tarleton, Harrison, and Underhill (Vice-Chairs) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒ Senate Committee Substitute for

HB 1743 A BILL TO BE ENTITLED AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO DEVELOP BASINWIDE HYDROLOGIC MODELS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☒ With recommendation that the House concur.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

HOUSE BILL 1802*

Committee Substitute Favorable 6/1/10
Senate Agriculture/Environment and Natural Resources Committee Substitute Adopted 7/1/10

Short Title: ENR Reports Consol. / Tech. Corrects 2010. (Public)

Sponsors:

Referred to:

May 19, 2010

A BILL TO BE ENTITLED

AN ACT TO AMEND OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES REPORTING REQUIREMENTS AND TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO VARIOUS LAWS RELATED TO THE ENVIRONMENT, ENERGY, AND NATURAL RESOURCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

PART I. REPORTS CONSOLIDATION.

SECTION 1. G.S. 130A-309.06(c)(13) is repealed.

SECTION 2. G.S. 130A-310.57 reads as rewritten:

"**§ 130A-310.57. (Effective until December 31, 2017) Reports.**

The Department shall submit an annual report on the mercury switch removal program under this Part to the Environmental Review ~~Commission~~ Commission, ~~and~~ the Senate and House of Representatives Appropriations Subcommittees on Natural and Economic ~~Resources~~Resources, and the Fiscal Research Division of the General Assembly on or before 1, October of each year. The report shall include, at a minimum, all of the following:

(1) A detailed description of the mercury recovery performance ratio achieved by the mercury switch removal program.

(1a) A detailed description of the mercury switch collection system developed and implemented by vehicle manufacturers in accordance with the NVMSRP.

(2) In the event that a mercury recovery performance ratio of at least 0.90 of the national mercury recovery performance ratio as reported by the NVMSRP is not achieved, a description of additional or alternative actions that may be implemented to improve the mercury switch removal program.

(3) The number of mercury switches collected and a description of how the mercury switches were managed.

(4) A statement that details the costs required to implement the mercury switch removal program including a summary of receipts and disbursements from the Mercury Switch Removal Account."

SECTION 3. G.S. 143-214.13 reads as rewritten:

"**§ 143-214.13. Ecosystem Enhancement Program: reporting requirement.**

(a) The Department of Environment and Natural Resources shall report each year by November 1 to the Environmental Review Commission and to the Joint Legislative

Commission on Governmental Operations regarding its progress in implementing the Ecosystem Enhancement Program and its use of the funds in the Ecosystem Restoration Fund. The report shall document statewide wetlands losses and gains and compensatory mitigation performed under G.S. 143-214.8 through G.S. 143-214.12. The report shall also provide an accounting of receipts and disbursements of the Ecosystem Restoration Fund, an analysis of the per-acre cost of wetlands restoration, and a cost comparison on a per-acre basis between the State's Ecosystem Enhancement Program and private mitigation banks. The Department shall also send a copy of its report to the Fiscal Research Division of the General Assembly.

(b) The Department shall maintain an inventory of all property that is held, managed, maintained, enhanced, restored, or used to create wetlands under the Ecosystem Enhancement Program. The inventory shall also list all conservation easements held by the Department. The inventory shall be included in the annual report required under subsection (a) of this section."

SECTION 4. G.S. 143B-336.1 reads as rewritten:

"**§ 143B-336.1. Special Zoo Fund.**

A special continuing and nonreverting fund, to be called the Special Zoo Fund, is created. The North Carolina Zoological Park shall retain unbudgeted receipts at the end of each fiscal year, beginning June 30, 1989, and deposit these receipts into this Fund. This Fund shall be used for maintenance, repairs, and renovations of exhibits in existing habitat clusters and visitor services facilities, construction of visitor services facilities and support facilities such as greenhouses and temporary animal holding areas, for the replacement of tram equipment as required to maintain adequate service to the public, and for marketing the Zoological Park. The Special Zoo Fund may also be used to match private funds that are raised for these purposes. Funds may be expended for these purposes by the Department of Environment and Natural Resources on the advice of the North Carolina Zoological Park Council and with the approval of the Office of State Budget and Management. The Department of Environment and Natural Resources shall provide ~~an annual~~ a report on or before October 1 of each year to the Office of State Budget and ~~Management~~ Management, ~~and to~~ the Fiscal Research Division of the ~~Legislative Services Office~~ General Assembly, and to the Joint Legislative Commission on Governmental Operations on the use of fees collected pursuant to this section."

SECTION 5. G.S. 143B-344.21 reads as rewritten:

"**§ 143B-344.21. Reports to General Assembly.**

The Commission shall prepare and submit a report outlining the needs of the North Carolina State Museum of Natural Sciences and recommendations for improvement of the effectiveness of the North Carolina State Museum of Natural Sciences for the purpose hereinabove set forth to the 1995 General Assembly, and to each succeeding General Assembly, to the Fiscal Research Division of the General Assembly, and to the Joint Legislative Commission on Governmental Operations~~a report outlining the needs of the North Carolina State Museum of Natural Sciences and their recommendation for improvement of the effectiveness of the North Carolina State Museum of Natural Sciences for the purpose hereinabove set forth~~ on or before October 1 of each year."

SECTION 6. S.L. 2002-4, Section 11, as amended by S.L. 2006-79, reads as rewritten:

"**SECTION 11.** The Environmental Management Commission shall study the desirability of requiring and the feasibility of obtaining reductions in emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) beyond those required by G.S. 143-215.107D, as enacted by Section 1 of this act. The Environmental Management Commission shall consider the availability of emissions reduction technologies, increased cost to consumers of electric power, reliability of electric power supply, actions to reduce emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) taken by states and other entities whose emissions negatively impact air quality in North Carolina or whose failure to achieve comparable reductions would place the economy of North Carolina at a competitive disadvantage, and the effects that these reductions would

have on public health, the environment, and natural resources, including visibility. In its conduct of this study, the Environmental Management Commission may consult with the Utilities Commission and the Public Staff. The Environmental Management Commission shall report its findings and recommendations to the General Assembly and the Environmental Review Commission ~~annually~~ biennially beginning ~~1 September 2007.~~1 September 2011."

PART II. TECHNICAL CORRECTIONS.

SECTION 7. G.S. 114-4.2D reads as rewritten:

"**§ 114-4.2D. Employment of attorney for Energy Policy Council and Energy Efficiency Program of the Department of ~~Administration~~ Commerce.**

The Attorney General shall assign an attorney ~~on his staff~~ to work full time with the Energy Policy Council and Energy Efficiency Program of the Department of ~~Administration~~ Commerce. Such attorney shall be subject to all provisions of Chapter 126 of the General Statutes relating to the State Personnel System. Such attorney shall also perform such additional duties as may be assigned ~~to him~~ by the Attorney General."

SECTION 8. The title of Article 19 of Chapter 120 of the General Statutes reads as rewritten:

"Article 19.

~~Commission on~~ Agriculture and Forestry Awareness Study Commission."

SECTION 9. G.S. 120-150 reads as rewritten:

"**§ 120-150. Creation; appointment of members.**

There is created an Agriculture and Forestry Awareness Study Commission. Members of the Commission shall be citizens of North Carolina who are interested in the vitality of the agriculture and forestry sectors of the State's economy. Members shall be as follows:

(1) Three appointed by the ~~Governor;~~Governor.
(2) Three appointed by the President Pro Tempore of the ~~Senate;~~Senate.
(3) Three appointed by the Speaker of the ~~House;~~House.
(4) The ~~chairman~~chairs of the House Agriculture ~~Committee;~~Committee.
(5) The ~~chairman~~chairs of the Senate ~~Agriculture Committee;~~Committee on Agriculture, Environment, and Natural Resources.
(6) The Commissioner of Agriculture or the Commissioner's ~~designee;~~designee.
(7) A member of the Board of Agriculture designated by the ~~chairman~~chair of the Board of ~~Agriculture;~~Agriculture.
(8) The President of the North Carolina Farm Bureau Federation, Inc., or the President's ~~designee;~~designee.
(9) The ~~Master~~ President of the North Carolina State Grange or the ~~Master's~~ President's ~~designee;~~designee.
(10) The Secretary of Environment and Natural Resources or the Secretary's ~~designee; and~~designee.
(11) The President of the North Carolina Forestry Association, Inc., or the President's designee.

Members shall be appointed for two-year terms beginning October 1 of each odd-numbered year. The Chairs of the House Agriculture Committee and the Chairs of the Senate Committee on Agriculture, Environment, and Natural Resources shall serve as cochairs. ~~The cochairmen of the Commission shall be the chairmen of the Senate and House Agriculture Committees respectively.~~"

SECTION 10. G.S. 130A-309.10(l) reads as rewritten:

"(l) Oyster shells that are delivered to a landfill shall be stored at the landfill for at least 90 days or until they are removed for recycling. If oyster shells that are stored at a landfill are not removed for recycling within 90 days of delivery to the landfill, then, notwithstanding

subdivision ~~(12)~~(13) of subsection (f) of this section, the oyster shells may be disposed of in the landfill."

SECTION 11. G.S. 130A-309.12(b) reads as rewritten:

"(b) The Solid Waste Management Trust Fund shall consist of the following:

(1) Funds appropriated by the General Assembly.

(2) Contributions and grants from public or private sources.

(3) ~~Five percent (5%)~~Eight percent (8%) of the proceeds of the scrap tire disposal tax imposed under Article 5B of Chapter 105 of the General Statutes.

(4) Eight percent (8%) of the proceeds of the white goods disposal tax imposed under Article 5C of Chapter 105 of the General Statutes.

(5) Twelve and one-half percent (12.5%) of the proceeds of the solid waste disposal tax imposed under Article 5G of Chapter 105 of the General Statutes."

SECTION 12. G.S. 130A-310.11(b) reads as rewritten:

"(b) Funds credited to the Inactive Hazardous Sites Cleanup Fund pursuant to G.S. 130A-295.9 shall be used only as provided in G.S. 130A-295.9(1) and ~~G.S. 130A-310.5(c).~~G.S. 130A-310.6(c)."

SECTION 13. G.S. 143-355.4(b) reads as rewritten:

"(b) To be eligible for State water infrastructure funds from the Drinking Water State Revolving Fund or the Drinking Water Reserve ~~Fund~~ or any other grant or loan of funds allocated by the General Assembly whether the allocation of funds is to a State agency or to a nonprofit organization for the purpose of extending waterlines or expanding water treatment capacity, a local government or large community water system must demonstrate that the system:

...."

SECTION 14. G.S. 153B-2 reads as rewritten:

"**§ 153B-2. Definitions.**

The following definitions apply in this ~~Article:~~Chapter:

(1) Commission. – The Mountain Resources Commission created by this Chapter.

(2) Council. – The Mountain Area Resources Technical Advisory Council.

(3) Important mountain resources. – The natural and cultural resources of the mountain region of Western North Carolina, including, but not limited to, State and federal public lands, wildlife habitat, farms, forestland and rural landscapes, mountain vistas, mountain streams and rivers, mountain lakes, and historical and archeological resources.

(4) Mountain region of Western North Carolina. – The area encompassed by the counties of Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Cleveland, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Surry, Swain, Transylvania, Watauga, Wilkes, Yadkin, and Yancey in the State.

(5) Secretary. – The Secretary of ~~the Department of~~ Environment and Natural Resources."

SECTION 15. G.S. 153B-3(d) reads as rewritten:

"(d) Membership. – The Commission shall consist of 17 members as follows:

...

(d1) Officers; Terms. – The members of the Commission shall elect a chair, vice-chair, and any other officers they consider necessary and shall determine the length of the term of office, not to exceed two years, of each officer. A majority of the Commission shall constitute a quorum. Each member appointed to the Commission shall be appointed to serve a four-year

term. Any vacancy on the Commission shall be filled by the original appointing authority for the remainder of the unexpired term. Initial terms commence September 1, 2009."

SECTION 16. G.S. 153B-4 reads as rewritten:

"**§ 153B-4. Mountain Area Resources Technical Advisory Council.**

...

(d) Members; Multiple Offices. – Membership on the ~~Mountain Area Resources Technical Advisory~~ Council is hereby declared to be an office that may be held concurrently with other elective or appointive offices (except the office of Commission member) in addition to the maximum number of offices permitted to be held by one person under G.S. 128-1.1.

(e) ~~Chairman~~ Chair and Vice ~~Chairman~~Chair. – A ~~chairman~~chair and vice ~~chairman~~ chair shall be elected annually by the Council.

(f) Compensation. – The members of the ~~Advisory~~ Council who are not State employees may receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5. All expenses shall be paid from funds available to the Commission through the Mountain Area Resources Fund, but no expenses shall be paid if the Mountain Area Resources Fund lacks the necessary funds."

SECTION 17. Section 3(d) of S.L. 2005-190 reads as rewritten:

"**SECTION 3.(d) Eligibility under the Clean Water Revolving Loan and Grant Act.** – The definitions set out in G.S. 159G-3 apply to this subsection. The operator of a wastewater treatment works that is owned by an agency of the State may apply for a loan or grant under ~~Chapter 159G of the General Statutes~~G.S. 159G-20 on the same basis as any other applicant if the operator is a local government unit and if the local government unit operates the wastewater treatment works pursuant to a contract with the State agency that contemplates that the local government unit will eventually acquire ownership of the wastewater treatment works."

PART III. EFFECTIVE DATE.

SECTION 18. This act is effective when it becomes law.

HOUSE BILL 1802:
ENR Reports Consol. / Tech. Corrects 2010

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	July 7, 2010
Introduced by:	Reps. Harrison, Gibson, Tarleton, Underhill	**Prepared by:**	Jennifer Mundt Legislative Analyst
Analysis of:	Third Edition		

SUMMARY: The 3rd Edition of House Bill 1802 would amend or repeal various environmental and natural resources reporting requirements and make clarifying, conforming, and technical amendments to various laws related to the environment, energy, and natural resources.

The provisions in the bill are recommendations of the Environmental Review Commission.

[As introduced, this bill was identical to S1163, as introduced by Sen. Hartsell, which is currently in Senate Agriculture/Environment/Natural Resources.]

BILL ANALYSIS: House Bill 1802 would do the following:

PART I: REPORTS CONSOLIDATION

Section 1 would repeal a reporting requirement made obsolete by Section 15 of S.L. 2009-484, which repealed the requirement for each State department, institution, agency, community college, and local chool administrative unit to report to the Division of Pollution Prevention and Environmental ssistance of the Department of Environment and Natural Resources (DENR) on the amounts and types of materials and supplies with recycled content that were purchased. Repealing G.S. 130A-309.06(c)(13) removes the requirement for the Division of Waste Management to include information from this report in the annual solid waste management report.

Section 2 would require DENR to submit the mercury switch removal program annual report to the Fiscal Research Division of the General Assembly, in addition to the Environmental Review Commission (ERC) and the Senate and House of Representatives Appropriations Subcommittees on Natural and Economic Resources.

Section 3 would require DENR to submit the Ecosystem Enhancement Program annual report to the Joint Legislative Commission on Governmental Operations (Gov Ops), in addition to the ERC and the Fiscal Research Division.

Section 4 would specify the reporting date of the Special Zoo Fund annual report to October 1 and add an additional reporting requirement from DENR to Gov Ops, in addition to the Office of State Budget Management and the Fiscal Research Division.

Section 5 would specify a reporting date of October 1 for the Advisory Commission for the North Carolina State Museum of Natural Sciences annual report and add an additional reporting requirement from the Commission to the Fiscal Research Division and Gov Ops, in addition to the General Assembly.

Section 6 would amend the reporting requirement for the Environmental Management Commission MC) report on the desirability of requiring and the feasibility of obtaining reductions in emissions of ides of nitrogen (NO_x) and sulfur dioxide (SO_2) beyond those required by G.S. 143-215.107D from annual to biennial, with the first report due on September 1, 2011. The change to biennial reporting was requested by Steve Smith, Chairman of the EMC.

PART II: TECHNICAL CORRECTIONS

Section 7 would make conforming amendments to G.S. 114-4.2D to change the Department of Administration to the Department of Commerce and use gender neutral language. In 2009, the General Assembly transferred the Energy Policy Council and the Energy Efficiency Program from the Department of Administration to the Department of Commerce.

Section 8 would amend the catch line of Article 19 of Chapter 120 of the General Statutes to read the "Agriculture and Forestry Awareness Study Commission."

Section 9 would amend G.S. 120-150 to use gender-neutral language and amend that statute to correctly name the committees listed therein.

Section 10 would amend an incorrect cross reference in G.S. 130A-309.10(l) regarding the prohibition on the disposal of oyster shells in landfills.

Section 11 would amend G.S. 130A-309.12(b), which provides for the funding contributions that make up the Solid Waste Management Trust Fund, to conform to changes made to Articles 5B[1] and 5G[2] of Chapter 105 of the General Statues in S.L. 2007-153 and S.L. 2007-550.

Section 12 would amend an incorrect statutory reference in G.S. 130A-310.11(b) regarding the use of funds credited to the Inactive Hazardous Sites Cleanup Fund.

Section 13 would amend G.S. 143-355.4(b) to correctly name the listed funds.

Section 14 would make technical and conforming changes in G.S. 153B-2.

Section 15 would make technical and conforming changes in G.S. 153B-3(d).

Section 16 would amend G.S. 153B-4 to include gender-neutral language and make conforming changes.

Section 17 would correct a cross reference in Section 3.(d) of S.L. 2005-190.

EFFECTIVE DATE: This act would become effective when it becomes law.

Mariah Matheson, Research Assistant, substantially contributed to this summary.

H1802-SMTA-100(e3) v1

[1] G.S. 105-187.19(b) provides that the Secretary of Revenue must credit 8% of the net tax proceeds of the Scrap Tire Disposal Tax to the Solid Waste Management Trust Fund.

[2] G.S. 105-187.63(3) provides that the Secretary of Revenue must credit or distribute 12.5% of the Solid Waste Disposal Taxes received to the Solid Waste Management Trust Fund.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representatives Tarleton, Harrison, and Underhill (Vice-Chairs) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒ Senate Committee Substitute for

HB 1802 A BILL TO BE ENTITLED AN ACT TO AMEND OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES REPORTING REQUIREMENTS AND TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO VARIOUS LAWS RELATED TO THE ENVIRONMENT, ENERGY, AND NATURAL RESOURCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☒ With recommendation that the House concur.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

SPEAKER REGISTRATION SHEET

ENVIRONEMNT & NATURAL RESOURCES COMMITTEE

July 7, 2010

SPEAKERS: PLEASE SIGN IN BELOW

Name & Title	Representing (Agency/Company)	Bill #	Support/ Oppose
TOM REEDER	NC DIVISION OF WATER RESOURCES		

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — **Name of Committee**

July 7, 2010 — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[signature]	NCACC
L. Andrews	NCFB
Tommy Stevens	NCPC
[signature]	RL&A Assoc
[signature]	NCFA

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — July 7, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Kathryn Westcott	ACEC/NC
Kimberly Rankin	Sierra Club
Weatherly Rose	Hunton + Williams
Peter Griggs	CCNC
Stephanie Hoss	NRP Duke's & Yadkin
Peter Gehred	CCNC
Leah Bradshaw	TNC
Jonah Jarvis	Rep. Luebke
DAVID BARNES	Progress Energy
John Pollard	NCADA
Mitch Peele	NCFB

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — July 7, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Janie Hauser	DENR
Robin Smith	DENR
Dan Conrad	NCCN
Hassan Khan	"
Dan Crawford	CCNC
Ru Kaylan	Kaylan Law Firm
David Knight	DENR

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — July 7, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Patrick Buffkin	NCAEC
Tom BEAN	NCSEA NCEDF NCWF
JOHN SHAW	CAP. GRP. SIERRA CLUB
T REEDER	NC DWR
Elizabeth Biser	DENR
Tom Fransen	DWR, NLDENR
John McMillan	MFLs
Nick Tosco	NCLM
Sam Pearsall	EDF
David Kelly	EDF
Peter Raabe	American Rivers

VISITOR REGISTRATION SHEET

ENVIRONMENT (HOUSE) — July 7, 2010

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Grady McWilliams	NCCN
Emily Schieffer	NCCN
Amy Pickle	Nicholas Institute @ Duke University
Allison Calder	Pavlatics
Paula Wolf	Wake up Wake County
Arlene Hines	
Andy Munn	REBIC
Jessie Hayes	NC HBA
Lisa Martin	NC HBA
Kathy Hawkins	Duke Energy
George Everett	Duke Energy

HOUSE PAGES

ENVIRONMENT + NATURAL
NAME OF COMMITTEE RESOURCES DATE 7-7-10

1. Name:	Cecilia Best	Bays Coppedge
County:	Duplin	Wake
Sponsor:	Tucker	Weiss
2. Name:	Victaia Peterson	Chelsea Lawson
County:	Carteret	Surry
Sponsor:	Mcelraft	Holloway
Viv-la-ca 3. Name:	Vivlica Rodgers	Corinne Durney
County:	Beaufort	Wake
Sponsor:	Williams	Holliman
4. Name:	Deanna Metivier MET-A-VER	
County:	Wake	
Sponsor:	Starn	
5. Name:	Aubrey Killian	
County:	Mecklenburg	
Sponsor:	Killian	

SGT-AT-ARM

1. Name: EARL COKER
2. Name: JAMES WORTH
3. Name: FREDERICK HINES
4. Name: DAVE SHERRON
5. FRANK PREVO

MINUTES

HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

JULY 8, 2010

The HOUSE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES met on Friday, July 8, 2010, in room 1228 of the Legislative Building with Representative Pricey Harrison presiding. All committee members were present.

Representative Harrison called the meeting to order at 3:15 p.m.

The first item on the agenda was Senate Committee Substitute for House Bill 1765 – A BILL TO BE ENTITLED AN ACT TO AUTHORIZE COALITIONS OF LOCAL GOVERNMENTS TO JOINTLY IMPLEMENT WATER QUALITY PROTECTION PLANS FOR THE FALLS LAKE WATERSHED; TO PROVIDE THAT AN APPLICANT FOR AN INTERBASIN TRANSFER CERTIFICATE SHALL PAY THE COSTS ASSOCIATED WITH ALL REQUIRED PUBLIC HEARINGS; TO CREATE A TEMPORARY, STREAMLINED INTERBASIN TRANSFER CERTIFICATION PROCESS FOR INTERBASIN TRANSFERS IN THE CENTRAL COASTAL PLAIN CAPACITY USE AREA AND INTO ISOLATED RIVER BASINS; TO LIMIT TRANSFERS OF WATER FROM THE CATAWBA RIVER BASIN UNDER THE CONCORD AND KANNAPOLIS INTERBASIN TRANSFER CERTIFICATE; AND TO PROVIDE THAT BENEFICIAL REUSE OF WASTEWATER INCLUDES CERTAIN FACILITIES THAT REQUIRE RELOCATION OF A DISCHARGE FROM ONE RECEIVING STREAM TO ANOTHER. Representative Harrison noted that this bill had been returned from the Senate requesting concurrence with changes made in Senate Committee. Jeff Hudson, Committee Counsel, was called upon to point out the changes made by the Senate. Robin Smith with the North Carolina Department of Environment and Natural Resources was called upon to assist in fielding questions from committee members. Following further discussion about the bill, Representative Gillespie made a motion for a recommendation that the House do not concur. This motion received unanimous approval.

Next on the agenda was Senate Committee Substitute for HB 972 - A BILL TO BE ENTITLED AN ACT TO CREATE THE UWHARRIE REGIONAL RESOURCES COMMISSION AS A PERMANENT BODY CORPORATE OF THE STATE TO FOSTER ECONOMIC DEVELOPMENT AND PROTECT AND ENHANCE THE NATURAL RESOURCES OF THAT REGION. This bill had been sent from the Senate for concurrence. Senator Hartsell was called upon to present the bill. Following questions by the committee, Representative Gibson made a motion for a recommendation that the House concur. This motion passed by a vote of 12 in favor and 8 in opposition.

The next bill before the committee was Committee Substitute for SB 778 - A BILL TO BE ENTITLED AN ACT TO AMEND THE GENERAL STATUTES TO PROVIDE THAT MAJOR DEVELOPMENTS SUBJECT TO PERMITTING UNDER THE COASTAL AREA MANAGEMENT ACT ARE EXEMPT FROM THE ENVIRONMENTAL POLICY ACT. As a proposed committee substitute for the bill was being distributed, Representative Gibson was called upon to present the bill. Representative Gibson made a motion that the PCS be placed before the committee for consideration. Representative Harrison and Jeff Hudson, Committee Counsel, assisted in explaining certain elements of the PCS to committee members. Representative Martin presented an amendment. To aid in

evaluating the amendment, Geoffry Gisler, an attorney representing the Southern Environmental Center, and Don Hobart from the Governor's office, were called upon. Four additional speakers provided input: Kevin Leonard with the Association of County Commissioners, John McAlister with the North Carolina Chamber of Commerce, Rob Lamme with the Coastal Federation of North Carolina, and Kelly Kukura with the North Carolina League of Municipalities. Following their remarks, Representative Harrison called for a vote on the amendment. The amendment failed by a vote of 12 against and 8 in favor. Once all questions and concerns about the PCS for SB 778 had been addressed, Representative Gibson made a motion for a favorable report as to House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill and recommendation that the House committee substitute bill be referred to the Committee on Judiciary I. This motion passed by a majority vote.

With no further business to come before the committee, the meeting was adjourned at 4:35 p.m.

Respectfully submitted,

Representative Pricey Harrison, Chair

Shara Graham, Committee Assistant

AGENDA

HOUSE ENVIRONMENT & NATURAL RESOURCES COMMITTEE MEETING

July 8, 2010
3:15 P.M.
Room 1228 LB

Representative Harrison, Chair

WELCOME AND OPENING REMARKS

AGENDA ITEMS:

HB 972 - Create Uwharrie Regional Resources Comm'n.
Sponsor: Rep. Tarlegon

HB 1765 - Amend IBT Enforcement and Notice
Sponsors: Reps. Gibson and Harrison

SB 778 - Application of SEPA to Incentives
Sponsor: Sen. Soles

ADJOURNMENT

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 5

HOUSE BILL 1765*
Committee Substitute Favorable 6/9/10
Committee Substitute #2 Favorable 6/30/10
Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted 7/6/10
Fifth Edition Engrossed 7/7/10

Short Title: Amend WQ/IBT Laws. (Public)

Sponsors:

Referred to:

May 18, 2010

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE COALITIONS OF LOCAL GOVERNMENTS TO JOINTLY IMPLEMENT WATER QUALITY PROTECTION PLANS FOR THE FALLS LAKE WATERSHED; TO PROVIDE THAT AN APPLICANT FOR AN INTERBASIN TRANSFER CERTIFICATE SHALL PAY THE COSTS ASSOCIATED WITH ALL REQUIRED PUBLIC HEARINGS; TO CREATE A TEMPORARY, STREAMLINED INTERBASIN TRANSFER CERTIFICATION PROCESS FOR INTERBASIN TRANSFERS IN THE CENTRAL COASTAL PLAIN CAPACITY USE AREA AND INTO ISOLATED RIVER BASINS; TO LIMIT TRANSFERS OF WATER FROM THE CATAWBA RIVER BASIN UNDER THE CONCORD AND KANNAPOLIS INTERBASIN TRANSFER CERTIFICATE; AND TO PROVIDE THAT BENEFICIAL REUSE OF WASTEWATER INCLUDES CERTAIN FACILITIES THAT REQUIRE RELOCATION OF A DISCHARGE FROM ONE RECEIVING STREAM TO ANOTHER.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 77 of the General Statutes is amended by adding a new Article to read:

"Article 8A.
"Falls Lake Watershed Association.

"**§ 77-119. Definitions.**

The following definitions apply in this Article:

(1) "Board of directors" has the same meaning as in G.S. 55A-1-40.

(2) "Falls Lake watershed" means those natural areas of drainage including all tributaries contributing to the supply of Falls Lake, the specific limits of which are designated by the Environmental Management Commission pursuant to G.S. 143-213.

(3) "Local government" means a county, city, town, or incorporated village that is located in whole or in part within the Falls Lake watershed. Local government also includes any water or sewer authority that is created pursuant to Article 1 of Chapter 162A of the General Statutes that provides service within the Falls Lake watershed.

(4) "Nonprofit corporation" has the same meaning as in G.S. 55A-1-40.

"**§ 77-120. Falls Lake Watershed Association criteria for creation; board of directors; purpose; meetings; and records.**

(a) Local governments may elect to incorporate the Falls Lake Watershed Association nonprofit corporation or establish the Association using an existing nonprofit corporation. The Association shall only be comprised of local governments that choose to participate in the Association.

(b) Each local government that elects to participate in the Association shall appoint a representative and an alternate representative to serve on the board of directors of the Association. The first board of directors that is appointed to the Association shall adopt bylaws that govern the operation of the Association.

(c) The purposes of the Association may include, but are not limited to:

(1) Providing a forum for sharing information in order to assist local governments in complying with State and federal laws that pertain to the water quality in the Falls Lake watershed.

(2) Providing a mechanism for participating local governments to coordinate and fund common technical resources.

(3) Planning for and conducting water quality monitoring in the Falls Lake watershed in coordination with the Department of Environment and Natural Resources.

(4) Coordinating with the Department of Environment and Natural Resources in the development of a transparent and accessible system for recording and maintaining nutrient offsets and credits that complies with any rules adopted to protect and restore water quality in the Falls Lake watershed.

(5) Providing a public forum to review and discuss innovative approaches to restore, protect, and maintain water quality in the Falls Lake watershed.

(6) Conducting and evaluating scientific research that describes or predicts conditions related to or affecting water quality in the Falls Lake watershed, including the reservoir.

(d) The Association shall be subject to the requirements for meetings of public bodies pursuant to Article 33C of Chapter 143 of the General Statutes.

(e) The Association shall be subject to the requirements for public records pursuant to Chapter 132 of the General Statutes.

"**§ 77-121. Memoranda of understanding.**

To the extent allowed by law, the Department of Environment and Natural Resources may enter into memoranda of understanding with the Association to implement the purposes in G.S. 77-120(c).

"**§ 77-122. Authority.**

The authority granted pursuant to this Article is in addition to and not in derogation of any other authority granted to local governments under any other provision of law."

SECTION 2. G.S. 143-215.22L(e) reads as rewritten:

"(e) Public Hearing on the Draft Environmental Document. – The Commission shall hold a public hearing on the draft environmental document for a proposed interbasin transfer after giving at least 30 days' written notice of the hearing in the Environmental Bulletin and as provided in subdivisions (2) and (3) of subsection (c) of this section. The notice shall indicate where a copy of the environmental document can be reviewed and the procedure to be followed by anyone wishing to submit written comments and questions on the environmental document. The Commission shall prepare a record of all comments and written responses to questions posed in writing. The record shall include complete copies of scientific or technical comments related to the potential impact of the interbasin transfer. The Commission shall accept written comment on the draft environmental ~~documents~~ document for a minimum of 30 days following the last public hearing. The applicant who petitions the Commission for a certificate under this

section shall pay the costs associated with the notice and public hearing on the draft environmental document."

SECTION 3. G.S. 143-215.22L(j) reads as rewritten:

"(j) Public Hearing on the Draft Determination. – Within 60 days of the issuance of the draft determination as provided in subsection (i) of this section, the Commission shall hold public hearings on the draft determination. At least one hearing shall be held in the affected area of the source river basin, and at least one hearing shall be held in the affected area of the receiving river basin. In determining whether more than one public hearing should be held within either the source or receiving river basins, the Commission shall consider the differing or conflicting interests that may exist within the river basins, including the interests of both upstream and downstream parties potentially affected by the proposed transfer. The public hearings shall be conducted by one or more hearing officers appointed by the Chair of the Commission. The hearing officers may be members of the Commission or employees of the Department. The Commission shall give at least 30 days' written notice of the public hearing as provided in subsection (c) of this section. The Commission shall accept written comment on the draft determination for a minimum of 30 days following the last public hearing. The Commission shall prepare a record of all comments and written responses to questions posed in writing. The record shall include complete copies of scientific or technical comments related to the potential impact of the interbasin transfer. The applicant who petitions the Commission for a certificate under this section shall pay the costs associated with the notice and public hearing on the draft determination."

SECTION 4. Section 7 of S.L. 2007-518 reads as rewritten:

"**SECTION 7.(a)** Except as provided in ~~subsection (b)~~subsections (b) and (c) of this section, this act becomes effective when it becomes law and applies to any petition for a certificate for a transfer of surface water from one river basin to another river basin first made on or after that date.

"**SECTION 7.(b)** For a petition for a certificate for transfer of surface water from one river basin to another river basin to supplement ground water supplies in the fifteen counties designated as the Central Coastal Plain Capacity Use Area under 15A NCAC 2E .0501, this act becomes effective 1 January ~~2011.~~2013. Prior to 1 January ~~2011,~~2013, a petition for a certificate for transfer of surface water from one river basin to another river basin to supplement ground water supplies in the fifteen counties designated as the Central Coastal Plain Capacity Use Area shall be considered and acted upon by the Environmental Management Commission pursuant to the procedures and standards set out in G.S. 143-215.22I on 1 July 2007.

"**SECTION 7.(c)** For purposes of this subsection, "isolated river basin" means each of the following river basins set out in G.S. 143-215.22G(1):

g.	2-6	New River.
v.	9-4	Shallotte River.
aa.	12-1	Albemarle Sound.
hh.	17-1	White Oak River.

For a petition for a certificate for transfer of surface water from a river basin to an isolated river basin, this act becomes effective 1 July 2020. Prior to 1 July 2020, a petition for a certificate for transfer of surface water from a river basin to an isolated river basin shall be considered and acted upon by the Environmental Management Commission pursuant to the procedures and standards set out in G.S. 143-215.22I on 1 July 2007."

SECTION 5. Concord and Kannapolis may not transfer water from the Catawba River Basin pursuant to the Certificate Authorizing the Cities of Concord and Kannapolis to Transfer Water from the Catawba River and Yadkin River Basins to the Rocky River Basin under the Provisions of G.S. 143-215.22I, approved by the Environmental Management Commission on January 10, 2007, and signed into effect on January 25, 2007, unless the

Department of Environment and Natural Resources determines that both of the following conditions are met:

(1) Concord and Kannapolis are transferring 10 million gallons per day from the Yadkin River Basin to the Rocky River Basin pursuant to the Interbasin Transfer Certificate.

(2) There are no other water supplies located within the Yadkin River Basin that are available to Concord and Kannapolis.

SECTION 6. G.S. 143-355.5(a) reads as rewritten:

"(a) Water Reuse Policy. – It is the public policy of the State that the reuse of treated wastewater or reclaimed water is critical to meeting the existing and future water supply needs of the State. The General Assembly finds that reclaimed water systems permitted and operated under G.S. 143-215.1(d2) in an approved wastewater reuse program can provide water for many beneficial purposes in a way that is both environmentally acceptable and protective of public health. This finding includes and applies to conjunctive facilities that require the relocation of a discharge from one receiving stream to another under all of the following conditions:

(1) The relocation is necessary to create an approved comprehensive wastewater reuse program.

(2) The reuse program provides significant reuse benefits.

(3) The relocated discharge will comply with all applicable water quality standards; will not result in degradation of water quality in the receiving waters; will not contribute to water quality impairment in the receiving watershed; and will result in net benefits to water quality, such as the elimination of a wastewater discharge in a nutrient sensitive river basin."

SECTION 7. This act is effective when it becomes law. Sections 2 and 3 apply to the costs, including costs of notice, associated with public hearings held on or after that date.

HOUSE BILL 1765: Amend WQ/IBT Laws

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	July 8, 2010
Introduced by:	Reps. Gibson, Harrison	**Prepared by:**	Jeff Hudson
Analysis of:	Fourth Edition		Committee Counsel

SUMMARY: ***H1765 would authorize local governments to jointly implement water quality protection plans for the Falls Lake Watershed, provide that an applicant for an interbasin transfer certificate must pay the costs associated with all required public hearings, provide for temporary streamlined interbasin certification process for interbasin transfers in the Central Coastal Plain Capacity Use Area and into isolated river basins, limit the transfers of water from the Catawba River Basin under the Concord and Kannapolis Interbasin Transfer Certificate, and provide that beneficial reuse of wastewater includes certain facilities that require relocation of a discharge from one receiving stream to another.***

[As introduced, this bill was identical to S1169, as introduced by Sen. Clodfelter, which is currently in Senate Agriculture/Environment/Natural Resources.]

CURRENT LAW AND BILL ANALYSIS:

Falls Lake Watershed Association

The Environmental Management Commission (EMC) is currently developing rules for the protection of water quality in the Falls Lake Watershed. Under these rules, local governments would be required to comply with and possibly implement some of the water quality protections.

House Bill 1765 would authorize local governments to jointly implement water quality protection plans for the Falls Lake Watershed.

Costs Associated with Interbasin Transfer Public Hearings

Under current law, the applicant for an interbasin transfer certificate must provide for and pay the costs associated with its notice of intent to file a petition for an interbasin transfer and related public hearings. In 2008, the General Assembly added requirements for public hearings to be held on the adequacy of environmental documents prepared pursuant to the interbasin transfer certification process and on the draft determination on whether to grant the interbasin transfer certificate. The 2008 legislation did not specify who should pay the costs associated with the new public hearing requirements.

House Bill 1765 would provide that the applicant for the interbasin certificate would pay the notice and public hearing costs associated with the environmental documents and draft determination.

Temporary Streamlined Interbasin Certification Process

In 2007, the General Assembly enacted a more stringent process for the certification of interbasin transfers. Because the new process provides that a full environmental impact statement must be prepared for all interbasin transfers between major river basins, the certification process for interbasin transfers between major river basins is considerably longer and more expensive. Recognizing the potential increase in costs and delays, the 2007 legislation included an exception for interbasin transfers to supplement ground water supplies in the Central Coastal Plain Capacity Use Area. This exception, which allows interbasin transfer applications to be processed according to statutes in place prior to the 2007 legislation, is scheduled to expire January 1, 2011.

House Bill 1765 would extend the sunset on the exception for the Central Coastal Plain Capacity Use Area to January 1, 2013. The bill would also provide a similar exception for the New River Basin, the Shallotte River Basin, the Albemarle Sound River Basin, and the White Oak River Basin, to expire July 1, 2020. These four river basins are located along the coast and are isolated in that their surface waters flow directly into the Atlantic Ocean or sounds and do not naturally interact with the surface waters of other river basins.

Concord Kannapolis Interbasin Transfer

Under the Certificate Authorizing the Cities of Concord and Kannapolis to Transfer Water from the Catawba River and Yadkin River Basins to the Rocky River Basin, approved by the Environmental Management Commission on January 10, 2007, and signed into effect on January 25, 2007, the cities of Concord and Kannapolis are authorized to transfer up to 10 million gallons of water per day from the Catawba River Basin and up to 10 million gallons of water per day from the Yadkin River Basin to the Rocky River Basin.

House Bill 1765 would prohibit the towns of Concord and Kannapolis from transferring water from the Catawba pursuant to the Certificate unless the Department of Environment and Natural Resources determines that both of the following conditions are met:

- Concord and Kannapolis are transferring 10 million gallons per day from the Yadkin River Basin to the Rocky River Basin pursuant to the Certificate.
- There are no other water supplies located within the Yadkin River Basin that are available to Concord and Kannapolis.

Beneficial Use of Wastewater

There is a development project in Apex that would reuse treated wastewater for certain purposes. This reuse would require the relocation of a discharge from one receiving stream to another.

House Bill 1765 would provide that that beneficial reuse of wastewater includes certain facilities that require relocation of a discharge from one receiving stream to another under all of the following conditions:

- The relocation is necessary to create an approved comprehensive wastewater reuse program.
- The reuse program provides significant reuse benefits.
- The relocated discharge will comply with all applicable water quality standards; will not result in degradation of water quality in the receiving waters; will not contribute to water quality impairment in the receiving watershed; and will result in net benefits to water quality, such as the elimination of a wastewater discharge in a nutrient sensitive river basin."

EFFECTIVE DATE: This act is effective when it becomes law. The act would apply to costs associated with public hearings held on or after the date the act becomes effective.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representatives Harrison, Tarleton, Underhill (Vice-Chairs) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒Committee Substitute for

HB 1765 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE COALITIONS OF LOCAL GOVERNMENTS TO JOINTLY IMPLEMENT WATER QUALITY PROTECTION PLANS FOR THE FALLS LAKE WATERSHED; TO PROVIDE THAT AN APPLICANT FOR AN INTERBASIN TRANSFER CERTIFICATE SHALL PAY THE COSTS ASSOCIATED WITH ALL REQUIRED PUBLIC HEARINGS; TO CREATE A TEMPORARY, STREAMLINED INTERBASIN TRANSFER CERTIFICATION PROCESS FOR INTERBASIN TRANSFERS IN THE CENTRAL COASTAL PLAIN CAPACITY USE AREA AND INTO ISOLATED RIVER BASINS; TO LIMIT TRANSFERS OF WATER FROM THE CATAWBA RIVER BASIN UNDER THE CONCORD AND KANNAPOLIS INTERBASIN TRANSFER CERTIFICATE; AND TO PROVIDE THAT BENEFICIAL REUSE OF WASTEWATER INCLUDES CERTAIN FACILITIES THAT REQUIRE RELOCATION OF A DISCHARGE FROM ONE RECEIVING STREAM TO ANOTHER.

☒ With recommendation that the House do not concur.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

_____ On motion of Representative_____, Committee Amendment No.(s) ___ is/are adopted by EV (_____).

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 972

Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted 7/8/10

Short Title: Create Uwharrie Regional Resources Comm'n. (Public)

Sponsors:

Referred to:

April 2, 2009

A BILL TO BE ENTITLED

AN ACT TO CREATE THE UWHARRIE REGIONAL RESOURCES COMMISSION AS A PERMANENT BODY CORPORATE OF THE STATE TO FOSTER ECONOMIC DEVELOPMENT AND PROTECT AND ENHANCE THE NATURAL RESOURCES OF THAT REGION.

The General Assembly of North Carolina enacts:

SECTION 1. The General Statutes are amended by adding a new Chapter to read:

"**Chapter 153C.**

"**Uwharrie Regional Resources Act.**

"**§ 153C-1. Short title; findings; purpose.**

(a) Short Title. – This Chapter shall be known and may be cited as the "Uwharrie Regional Resources Act."

(b) Findings. – The General Assembly finds that:

(1) The beauty and abundant natural resources of the Uwharrie region of North Carolina are prized by all North Carolinians. Millions of tourists travel to the Uwharrie region of North Carolina to see and experience the natural beauty of the region, including: the vistas near Uwharrie National Forest and Morrow Mountain State Park; scenic lakes and rivers including Badin, High Rock, and Tuckertown Lakes, and the Uwharrie, Yadkin, and Pee Dee Rivers; as well as nearby attractions, including the North Carolina Zoological Park and the Seagrove area potteries. This tourism is vitally important to this region of the State.

(2) The federal government recognized the natural abundance and cultural heritage of this region of North Carolina by purchasing tens of thousands of acres of land and designating it the Uwharrie Reservation during the Great Depression. In 1961, President John F. Kennedy proclaimed these lands the Uwharrie National Forest.

(3) The same beauty and natural abundance that is valued by North Carolina residents, tourists, and the federal government is being adversely affected by natural asset uses that are negatively impacting the value and public's enjoyment of the important regional assets of the region.

(4) The region is subject to profound economic challenges and pressures due to a loss of manufacturing and industrial activities in recent years. Local governments face challenges as they adapt to new and difficult changes to the landscape.

(c) Purpose. – It is the purpose of this Chapter to encourage quality growth and development while preserving the natural resources of the Uwharrie region of North Carolina.

"**§ 153C-2. Definitions.**

The following definitions apply in this Article:

(1) Commission. – The Uwharrie Resources Commission created by this Chapter.

(2) Important regional resources. – The natural and cultural resources of the Uwharrie region of North Carolina, including, but not limited to: State and federal public lands; forestland; vistas; streams, rivers, and lakes; wildlife habitat; and economic, recreational, historical, and archeological resources.

(3) Department. – The Department of Commerce.

(4) Uwharrie region of North Carolina. – The area encompassed by the counties of Davidson, Davie, Montgomery, Rowan, Randolph, and Stanly in the State.

"**§ 153C-3. Uwharrie Regional Resources Commission.**

(a) Creation. – The Uwharrie Regional Resources Commission is hereby established. The Commission is a permanent body corporate of the State composed of members from the Uwharrie region of North Carolina. The Commission shall be located administratively in the Department of Commerce but shall exercise its statutory powers and duties independently of the Department of Commerce. The Commission shall meet in the Uwharrie region of North Carolina. Funds appropriated for the Commission by the General Assembly shall be disbursed directly to the Commission at the beginning of each fiscal year.

(b) Purpose. – The purposes and functions of the Uwharrie Regional Resources Commission are to do all of the following:

(1) Identify and evaluate issues affecting important resources of the region and recommend policies and programs to address those issues.

(2) Coordinate with existing local and regional efforts to address threats to important regional resources and work undertaken by councils of government and the jurisdictions they serve in the Uwharrie region of North Carolina.

(3) Provide a forum for discussion of issues affecting important regional resources.

(4) Promote communication, coordination, and education among stakeholders within the Uwharrie region of North Carolina.

(5) Collect research and information from North Carolina and other states and jurisdictions regarding State and regional approaches to coordinating (i) provision of infrastructure for the protection of important regional resources and (ii) efforts to encourage quality growth to protect such important regional resources.

(6) Monitor federal activities involving important regional resources.

(7) Determine whether new strategies or tools would be helpful to address pressures on important regional resources and whether and how such strategies or tools should be implemented to protect and enhance such resources to maximize their value for the benefit of the citizens of the Uwharrie region as well as the State.

(8) Provide guidance and make recommendations to local, State, and federal legislative and administrative bodies and to others as it considers necessary and appropriate for the use, stewardship, and enhancement of important regional resources.

(c) Authority. – To achieve its purposes, the Commission shall have all of the following powers and duties:

(1) To develop rules and procedures for the conduct of its business or as may be necessary to perform its duties and carry out its objectives, including, but not limited to, calling meetings and establishing voting procedures. Rules and procedures developed pursuant to this subsection shall be effective upon an affirmative vote by a majority of the Commission members.

(2) To pursue efforts directed at the equitable distribution of water for public purposes.

(3) To seek enforcement of environmental laws and contribution to environmental cleanup costs, consistent with its obligations under this Chapter.

(4) To establish standing and ad hoc committees. The Commission shall determine the purpose of each standing or ad hoc committee.

(5) To seek, apply for, accept, and expend gifts, grants, donations, services, and other aid from public or private sources. The Commission may accept or expend funds only after an affirmative vote by a majority of the members of the Commission.

(6) To exercise the powers of a body corporate, including the power to sue and be sued, own or lease property, and adopt and use a common seal and alter the same.

(7) To enter into contracts and execute all instruments necessary or appropriate to achieve the purposes of the Commission.

(8) To designate a fiscal agent.

(9) To perform any lawful acts necessary or appropriate to achieve the purposes of the Commission.

(d) Membership. – The Commission shall consist of 10 members as follows:

(1) One representative from the public at large who is a resident of the Uwharrie region of North Carolina appointed by the President Pro Tempore of the Senate.

(2) One representative from the public at large who is a resident of the Uwharrie region of North Carolina appointed by the Speaker of the House of Representatives.

(3) Four representatives from the public at large who are residents of the Uwharrie region of North Carolina to be appointed by the Governor, including:

a. Two who shall at the time of appointment be actively connected with or have experience in local government within the Uwharrie region of North Carolina.

b. One who shall at the time of appointment have experience in tourism or tourism development in the Uwharrie region of North Carolina.

c. One who shall have experience in economic development in the Uwharrie region of North Carolina.

(4) Two members to represent each of the following regional councils of government as appointed by those councils: the Centralina Council of Governments and the Piedmont Triad Council of Governments.

(5) The Secretary of Commerce or the Secretary's designee.

(6) The Secretary of Environment and Natural Resources or the Secretary's designee.

The members of the Commission shall elect a chair, vice-chair, and any other officers they consider necessary and shall determine the length of the term of office, not to exceed two years, of each officer. A majority of the Commission shall constitute a quorum. Each member appointed to the Commission shall be appointed to serve a four-year term. Any vacancy on the

Commission shall be filled by the original appointing authority for the remainder of the unexpired term. Initial terms commence September 1, 2010.

(e) Salary; Expenses. – Members of the Commission shall receive no salary for their service on the Commission but may receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate. All expenses shall be paid from funds available to the Commission through the Uwharrie Regional Resources Fund, but no expenses shall be paid if the Uwharrie Regional Resources Fund lacks the necessary funds.

(f) Staff Support. – The Department of Commerce shall provide staff support and facilities to the Commission within the existing programs of the agency. Additional staff may be hired or contracted by the Commission through funds raised by or provided to it. The duties and compensation of any additional staff shall be determined and fixed by the Commission within available resources.

(g) State Agency Cooperation. – All agencies of the State of North Carolina shall cooperate with the Commission and, upon request, shall assist the Commission in fulfilling its responsibilities. The Secretary of Commerce or the Secretary's designee shall serve as the liaison between the Secretary's agency and the Commission. The Commission may obtain information and data upon request from all officers, agents, agencies, and departments of the State of North Carolina or of local governments while in discharge of its duties.

(h) The role of the Commission is advisory in nature, and in no way shall the Commission be construed to have regulatory authority. No action of the Commission supercedes any decision of any local planning board.

"**§ 153C-4. Uwharrie Regional Resources Fund.**

(a) Creation. – The Uwharrie Regional Resources Fund is created as a special fund within the Department. The Fund consists of moneys credited to the Fund from appropriations and any gifts, grants, donations, or other aid from public or private sources.

(b) Use. – Moneys in the Fund shall be used by the Commission to implement the provisions of this Chapter."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 972:
Create Uwharrie Regional Resources Comm'n

2009-2010 General Assembly

Committee:	House Environment and Natural Resources	**Date:**	July 8, 2010
Introduced by:	Rep. Tarleton	**Prepared by:**	Jennifer McGinnis Committee Counsel
Analysis of:	Second Edition		

SUMMARY: House Bill 972 would establish the Uwharrie Regional Resources Commission to foster economic development and protect and enhance the natural resources of the Uwharrie Region (region), including Davidson, Davie, Montgomery, Rowan, Randolph, and Stanly counties.

CURRENT LAW: The bill is closely modeled after the Mountain Resources Planning Commission enacted in 2009 (see S.L. 2009-137).

BILL ANALYSIS: The bill would establish the Uwharrie Regional Resources Commission (Commission) as a permanent body corporate of the State comprised of 10 members from the Uwharrie region of North Carolina. The Commission would be located administratively in the Department of Commerce (Department) but would exercise its statutory powers and duties independently of the :partment.

...e purposes and functions of the Commission would be to:

- Identify and evaluate issues affecting important resources of the region and recommend policies and programs to address those issues.
- Coordinate with existing local and regional efforts to address threats to important regional resources and work undertaken by councils of government and the jurisdictions they serve in the region.
- Provide a forum for discussion of issues affecting important regional resources.
- Promote communication, coordination, and education among stakeholders within the region.
- Collect research and information from North Carolina and other states and jurisdictions regarding State and regional approaches to coordinating (i) provision of infrastructure for the protection of important regional resources and (ii) efforts to encourage quality growth to protect such important regional resources.
- Monitor federal activities involving important regional resources.
- Determine whether new strategies or tools would be helpful to address pressures on important regional resources and whether and how such strategies or tools should be implemented to protect and enhance such resources to maximize their value for the benefit of the citizens of the Uwharrie region as well as the State.
- Provide guidance and make recommendations to local, State, and federal legislative and administrative bodies and to others as it considers necessary and appropriate for the use, stewardship, and enhancement of important regional resources.

To achieve its purposes, the Commission would have the following powers, among others:

- To develop rules and procedures for the conduct of its business or as may be necessary to perform its duties and carry out its objectives.
- To pursue efforts directed at the equitable distribution of water for public purposes.
- To seek enforcement of environmental laws and contribution to environmental cleanup costs, consistent with its obligations under the Chapter.
- To seek, apply for, accept, and expend gifts, grants, donations, services, and other aid from public or private sources. The Commission may accept or expend funds only after an affirmative vote by a majority of the members of the Commission.
- To exercise the powers of a body corporate, including the power to sue and be sued, own or lease property, and adopt and use a common seal and alter the same.
- To enter into contracts and execute all instruments necessary or appropriate to achieve the purposes of the Commission.
- To perform any lawful acts necessary or appropriate to achieve the purposes of the Commission.

The bill would also create the Uwharrie Regional Resources Fund as a special fund within the Department. The Fund would consist of moneys credited to the Fund from appropriations and any gifts, grants, donations, or other aid from public or private source. Moneys in the Fund would be used by the Commission to implement the provisions of this Chapter.

EFFECTIVE DATE: The bill would be effective when the act became law.

H972-SMRI-104(e2) v1

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representatives Harrison, Tarleton, Underhill (Vice-Chairs) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒ Senate Committee Substitute for

HB 972 A BILL TO BE ENTITLED AN ACT TO CREATE THE UWHARRIE REGIONAL RESOURCES COMMISSION AS A PERMANENT BODY CORPORATE OF THE STATE TO FOSTER ECONOMIC DEVELOPMENT AND PROTECT AND ENHANCE THE NATURAL RESOURCES OF THAT REGION.

☒ With recommendation that the House concur.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 2

SENATE BILL 778

Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/4/09

Short Title: Eliminate Overlap Between CAMA and SEPA. (Public)

Sponsors:

Referred to:

March 25, 2009

A BILL TO BE ENTITLED

AN ACT TO AMEND THE GENERAL STATUTES TO PROVIDE THAT MAJOR DEVELOPMENTS SUBJECT TO PERMITTING UNDER THE COASTAL AREA MANAGEMENT ACT ARE EXEMPT FROM THE ENVIRONMENTAL POLICY ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113A-12 reads as rewritten:

"**§ 113A-12. Environmental document not required in certain cases.**

No environmental document shall be required in connection with:

(1) The construction, maintenance, or removal of an electric power line, water line, sewage line, stormwater drainage line, telephone line, telegraph line, cable television line, data transmission line, or natural gas line within or across the right-of-way of any street or highway.

(2) An action approved under a general permit issued under G.S. 113A-118.1, 143-215.1(b)(3), or 143-215.108(c)(8).

(3) A lease or easement granted by a State agency for:

a. The use of an existing building or facility.

b. Placement of a wastewater line on or under submerged lands pursuant to a permit granted under G.S. 143-215.1.

c. A shellfish cultivation lease granted under G.S. 113-202.

(4) The construction of a driveway connection to a public roadway.

(5) A major development as defined in G.S. 113A-118(d) that receives a permit review pursuant to Article 7 of Chapter 113A of the General Statutes, as that review is the functional equivalent of an environmental document prepared under this Article."

SECTION 2. This act is effective when it becomes law and applies to any major development for which a permit application is received by the Department of Environment and Natural Resources on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 778

Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/4/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S778-CSSB-102 [v.1]

7/8/2010 11:00:13 AM

Short Title: Application of SEPA to Incentives. (Public)

Sponsors:

Referred to:

March 25, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT AN ENVIRONMENTAL DOCUMENT UNDER THE STATE ENVIRONMENTAL POLICY ACT IS NOT REQUIRED IN CONNECTION WITH PROJECTS THAT RECEIVE PUBLIC MONIES IN THE FORM OF CERTAIN ECONOMIC INCENTIVES PAYMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113A-12 reads as rewritten:

"**§ 113A-12. Environmental document not required in certain cases.**

No environmental document shall be required in connection with:

(1) The construction, maintenance, or removal of an electric power line, water line, sewage line, stormwater drainage line, telephone line, telegraph line, cable television line, data transmission line, or natural gas line within or across the right-of-way of any street or highway.

(2) An action approved under a general permit issued under G.S. 113A-118.1, 143-215.1(b)(3), or 143-215.108(c)(8).

(3) A lease or easement granted by a State agency for:

a. The use of an existing building or facility.

b. Placement of a wastewater line on or under submerged lands pursuant to a permit granted under G.S. 143-215.1.

c. A shellfish cultivation lease granted under G.S. 113-202.

(4) The construction of a driveway connection to a public roadway."

(5) A project for which public monies are expended if the expenditure is solely for the payment of incentives pursuant to an agreement that makes the incentive payments contingent on prior completion of the project or activity, or completion on a specified timetable, and a specified level of job creation or new capital investment."

SECTION 2. This act becomes effective June 1, 2010, but does not apply to any pending litigation or orders issued by a court of competent jurisdiction prior to that date.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. CSSB-102 [v.1]

H. B. No. _____

S. B. No. 778

COMMITTEE SUBSTITUTE ✓

DATE July 8 2010

Amendment No. _____ (to be filled in by Principal Clerk)

Rep.) Martin
Sen.)

1 moves to amend the bill on page 1, line 26-28

2 ( ) WHICH CHANGES THE TITLE

3 by rewriting those lines to read

4

5 " " or new capital investment. The exception authorized in

6 this subdivision shall not apply to any project or activity that

7 is required to prepare an environmental impact statement pursuant

to the National Environmental Policy Act."

9

10 SECTION 2. This act is effective when it becomes law and

11 does not apply to any projects with pending permit applications, any

12 pending litigation, or orders by a court of competent jurisdiction prior

13 to that date. ".

14

15

16

17

18

19

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

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PROPOSED HOUSE COMMITTEE SUBSTITUTE S778-PCS55643-SB-102

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2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representatives Harrison, Tarleton, Underhill (Vice-Chairs) for the Committee on ENVIRONMENT AND NATURAL RESOURCES.

☒Committee Substitute for

SB 778 A BILL TO BE ENTITLED AN ACT TO AMEND THE GENERAL STATUTES TO PROVIDE THAT MAJOR DEVELOPMENTS SUBJECT TO PERMITTING UNDER THE COASTAL AREA MANAGEMENT ACT ARE EXEMPT FROM THE ENVIRONMENTAL POLICY ACT.

☒ With a favorable report as to House committee substitute bill, which changes the title, unfavorable as to Senate committee substitute bill and recommendation that the House committee substitute bill be re-referred to the Committee on JUDICIARY I.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution (No._____) is placed on the Calendar of _____. (The original bill resolution No._____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. ____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. ___) is placed on the Unfavorable Calendar.

SIERRA CLUB
FOUNDED 1892

To: Honorable Member, House Environment and Natural Resources Committee
From: Drew Ball, Director of Government Relations DB
Re: **HB 1973, Various Economic Incentives**
Date: July 8, 2010

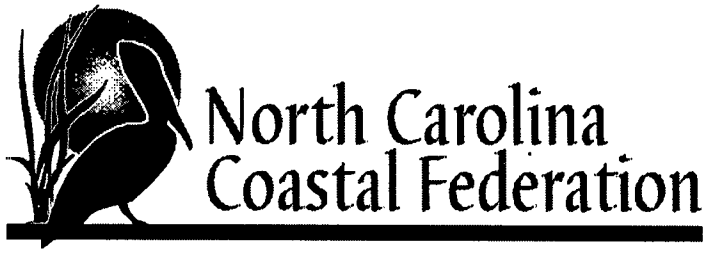
The North Carolina Environmental Policy Act (SEPA) aims to ensure that when the public's funds are expended, there is a higher level of environmental review of projects with a potentially high level of adverse environmental impacts. Recently, the Senate voted to amend HB 1973 to remove this basic public protection for incentives projects.

North Carolina has learned much from the controversial Titan Cement plant, which was offered public funds but is opposed by 200 Wilmington doctors due to anticipated adverse health impacts. Should this bill pass as amended, it will allow future Titan Cement-type large projects with potential for major adverse environmental affects and health impacts to escape comprehensive review. SEPA is rarely triggered because projects must meet three criteria before the review is triggered and most development projects do not meet all three. These three criteria are 1) state action is taken, such as issuing a permit, 2) involvement of public expenditures or public land, and 3) the project has potential to significantly affect the environment.

We urge members to oppose any changes that would weaken SEPA.

For further information, contact Drew Ball at 336.978.9699 or drew.ball@sierraclub.org.

Thank you for your consideration.



3609 Highway 24 (Ocean) Newport NC 28570

Setting the Record Straight on SEPA

Some of you may have received a communication from the N.C. Economic Developers Association titled *State Environmental Policy Act (SEPA), Economic Development Impact Concerns (Updated 6.7.10).* The association decries a recent decision by Wake County Superior Court that ruled that economic development projects that receive state or local incentives are subject the N.C. Environmental Policy Act, or SEPA That law requires that project that meet minimum thresholds must first under an environmental review before they can be permitted.

The association's communication was riddled with factual errors about the purposes and requirements of SEPA. The N.C. Coastal Federation, one of the plaintiffs in the lawsuit, would like to take this opportunity to set the record straight.

Below are the major bulleted points included in the association's communication, followed by the facts.

- *This ruling would subject every economic development project that receives state or local incentives to SEPA and dramatically reduce North Carolina's competitiveness for economic development projects.*

The Facts: SEPA only applies to projects that receive public money or use public land, require a state permit and have the potential to significantly affect the environment. All three conditions must be met before SEPA review is required. Few projects that get state or local incentives would meet all three criteria.

- *SEPA is a law that says, before the state can build a new state building or highway, the State must first study the project, get public input and consider all possible options and viewpoints. This can add years to the process of construction.*

The Facts: This is not what SEPA says. SEPA has always applied to all projects – public or private -- that meet the three criteria, not just to state-sponsored projects.

- *Judge Stephens' decision would require <u>private</u> economic development projects to first undergo a SEPA review (such as EIS) – <u>before any activity on the project could begin.</u>*

The Facts: The judge's ruling did no such thing. Only projects that receive public incentives and meet the laws other requirements would require a review.

- *This would mean that each project could face a delay of at least 6 months – and as much as 1.5 to 2 years – before a company could begin construction.*

The Facts: The N.C. Department of Administration estimates that SEPA reviews typically take 30-45 days, not years. The reviews are carefully tailored to the level of potential impacts. The level of review depends on the type of project, its size and location. The documentation required could be as simple as an erosion-control plan, a scaled-down review called an Environmental Assessment or a full-scaled Environmental Impact Statement (EIS). The rules for the types of review that may be required are clearly defined in the state's Administrative Procedures Act. Few projects require an EIS.

- *Judge Stephens' decision is contrary to more than 25 years of state practice.*

The Facts: In July 2008, the N.C. Department of Environment and Natural Resources determined that public grants given to private companies require SEPA review. Judge Stephens' decision merely reinstated that previous understanding.

- *The SEPA process has been around for about 25 years. During that time, thousands of private economic development projects have received incentive grants without SEPA ever being applied to them.*

The Facts: Most of those wouldn't have triggered SEPA because they did not significantly threaten the environment and public health.

- *A SEPA review does not provide increased environmental protection. It is simply a review process for state construction. The state and federal permitting laws are the provisions that we use to protect the environment – and they are more than adequate for that task.*

The Facts: As already noted, SEPA was never intended to be used for just "state construction." The statement displays a fundamental misunderstanding of the goals of the N.C. Environmental Policy Act. It is not a permitting program but is intended to help permitting agencies ensure that regulatory requirements are met and that effects are minimized and mitigated as much as possible. SEPA's purpose is to require state agencies to evaluate the potential negative environmental effects of a proposed project. Environmental documents prepared for SEPA compliance allow state government agencies to make informed decisions about whether and under what the conditions a project with potential adverse impacts should proceed. The law declares a state policy that is designed to protect and maintain the state's environment. That makes it our bedrock environmental law.

The North Carolina Environmental Policy Act and Economic Development Grants

The North Carolina Environmental Policy Act
N.C. Gen. Stat. § 113A-1-20

The North Carolina Environmental Policy Act ("SEPA") requires an environmental review of projects that:

- Require a state action (such as issuance of a permit);
- Involve an expenditure of public money or use of public land; and
- The potential to significantly affect the environment.

All three criteria must be met before the SEPA review is required. N.C. Gen. Stat. § 113A-4(2).

N.C. Coastal Federation, et al v. N.C. Department of Administration, 09 CVS 24628.

In 2008, the Department of Commerce and New Hanover County awarded Titan America/Carolinas Cement Company grants of $4.5 million building support of a Portland cement manufacturing facility in New Hanover County. Several citizen groups filed a lawsuit alleging that those grants were expenditures of public money under SEPA. All parties to the lawsuit agreed that the proposed cement plan both (1) required a state action and (2) had the potential to affect the environment. On April 30, 2010, Judge Donald Stephens of the Wake County Superior Court ruled that the grants of $4.5 million were expenditures of public money. Because this decision meant that all three criteria for SEPA review were met, the Superior Court held that Titan America's project required SEPA review.

What the Decision Does

- Affirms citizens' rights to information about the public health and environmental effects of projects supported by taxpayer-funded grants.
- Confirms that the payment of taxpayer-funded grants is an expenditure of public money.
- Promotes responsible and transparent use of public money.
- Ensures that decision-makers have adequate information *before* committing to a course of action that threatens to harm public health or the environment.

What the Decision Does Not Do

- It does not require all economic development grant projects to undergo SEPA review. Only those projects that meet *all three* of SEPA's criteria require review.
- It does not change the State's economic development programs. The decision addresses only the State's responsibility to comply with SEPA when a project requires permitting or other qualifying state action and has the potential to affect the environment.
- It does not require duplicative studies. By coordinating with any required National Environmental Policy Act review and integrating the review with required state permitting actions, the overall permitting process can be strengthened and streamlined so that each agency has access to the same information.

Overview of SEPA

- SEPA applies to projects only when all of the following three criteria are present:
  - Where there is a state action (e.g., an agency issues a permit)
  - Where there is the potential for significant environmental impacts
  - When the project involves public moneys or the use of public land

- Because all three criteria must be met in order for SEPA to apply, most economic development projects will not be subject to environmental review. Examples of recent projects that received significant levels of public support via grants from the One North Carolina Fund include the following:

  - **Celgard, LLC - $955,000 (January 20, 2010) to create 226 jobs**
  - **Electrolux Home Products, Inc. - $1,200,000 (Dec. 16, 2009) to create 683 jobs**
  - **Fiserv Inc. - $800,000 (October 11, 2009) to create 419 jobs**
  - **Neighborhood Assistance Corp. - $1 million (June 11, 2009) to create 1014 jobs**
  - **Quintiles - $2 million (November 29, 2006) to create 517 jobs**
  - **Fidelity Investments - $2 million (August 2, 2006) to create 2000 jobs**

- SEPA does not prohibit projects from receiving permits. It simply requires an assessment of environmental impacts to facilitate informed public participation and government decision-making. The information generated from the assessment of environmental impacts may be used in subsequent permitting processes, thereby streamlining permit reviews for the project.

- SEPA specifies that the Department of Administration has primary responsibility for adopting regulations governing SEPA's implementation and for ensuring its enforcement. (See 01 N.C. Admin. Code 25.0101 - 25.1002) Each state agency is authorized to adopt regulations to implement SEPA, but only the Department of Environment and Natural Resources has done so. (See 15A N.C. Admin. Code 01C.0101 – 01C.0505)

- Each agency also may adopt "minimum criteria" to exempt certain types or categories of actions from SEPA, e.g., those the agency deems do not have the potential to cause environmental harm.

- SEPA automatically applies for projects requiring a CAMA permit, for landfills, and for interbasin transfers of water

- SEPA does not duplicate the National Environmental Policy Act. In instances where both statutes apply, an EIS conducted pursuant to NEPA will suffice for compliance with SEPA. Even where both statutes apply, SEPA provides important environmental protection by requiring state decision makers to have information regarding a project's complete environmental and public health impacts before the state issues any permits.

VISITOR REGISTRATION SHEET

7-8-10

Name of Committee | Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Peyton Mayhew	
Travis Hazzett	Sierra Club
Kimberly Rankin	Sierra Club
Richard L Thompson	Dominion
Kathryn Westcott	NCEC/NC
Henri McClees	McClees Consulting
Margaret Hartzell	Environment North Carolina
Lisa Martin	NC Home Builders
Elizabeth Bise	DENR
Robin Smith	DENR
DAVID BARNES	P+S

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Jim Wiggins	Hoppes Hicks & Wiggins PLLC
Chip Killian	Nelson Mullins
[illegible]	City of Wilmington
George Everett	Duke Energy
Preston Howard	MCIC
J Goodman	DE Chamber
Kathy Hawkes	Duke
Bruce Thompson	Parker Poe
Michelle Frazier	MFS
Rep. Fred Steen	NCGA member
Courtney Crowell	Governor Perdue

VISITOR REGISTRATION SHEET

7-8-10

Name of Committee | Date

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NAME	FIRM OR AGENCY AND ADDRESS
Rob Lamm	RLK
Ben Mcauley	NCDOT

VISITOR REGISTRATION SHEET

7-8-10

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VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
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BNOBLY Jr	WM
A H HARRIS	WM
D HARRIS	WM
BRIAN DEMPSEY	MWC
CSTILLS	TSS
Jeff Mikan	AFP
Joe Peters	APAssoc
Emily Schieffer	NCCN
Dan Conrad	NCCN
Dan Crawford	CCC

VISITOR REGISTRATION SHEET

7-8-10

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Patrick Baffin	NCAEC
Mike Taylor	Stanly County
HASSAN KHAN	NLCV
Lu-Ann C Penyman	mcic
John Mendo	MMC
Sarah Clapp	NCWRC
Scott Taylor	The Insider
Mark Sasser	NC Water Rights Committee
DON MCBRIDE	Office of Governor
Ken Howell	NCSU
David Bone	

HOUSE PAGES

NAME OF COMMITTEE ENVIRONMENT + NATURAL RESOURCES DATE 7-8-10

1. Name: _____

County: _____

Sponsor: _____

2. Name: _____

County: _____

Sponsor: _____

3. Name: _____

County: _____

Sponsor: _____

4. Name: _____

County: _____

Sponsor: _____

5. Name: _____

County: _____

Sponsor: _____

SGT-AT-ARM

1. Name: JUDY TURNER
2. Name: MARTHA GADISON
3. Name: DUSTY Rhodes
4. Name: _____