

2015-2016

**SENATE
RULES AND
OPERATIONS**

MINUTES

Senate Rules Committee Membership

2015-16 Session

Senator Tom Apodaca, Chair

Senator Tommy Tucker

Senator Chad Barefoot

Senator Dan Blue

Senator Andrew Brock

Senator Harry Brown

Senator Ben Clark

Senator Joel D. M. Ford

Senator Kathy Harrington

Senator Ralph Hise

Senator Brent Jackson

Senator Floyd McKissick

Senator Wesley Meredith

Senator E. S. (Buck) Newton

Senator Bill Rabon

Senator Josh Stein

Senator Trudy Wade



MINUTES

Rules and Operations of the Senate

April 15, 2015

The Rules and Operations of the Senate committee met on Wednesday, April 15, 2015 at 4:00 p.m. The meeting was held in room 1027 of the Legislative Building. Sixteen Senate members of the committee were present. Senator Tom Apodaca presided.

Senator Apodaca introduced the Pages and the Sergeant at Arms.

Senator Apodaca brought forth the item on the agenda.

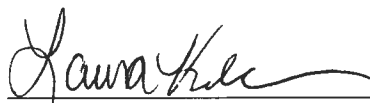
HB356- Clarify Laws on Executive Orders and Appointments- Representative Lewis explained the bill. Senator Apodaca opened up the floor for questions.

Senator Brock moved for a favorable report. Motion carried.

The meeting adjourned at 4:05 p.m.



Senator Tom Apodaca, Presiding



Laura Kilian, Committee Assistant



Senate Committee on Rules and Operations of the Senate
Wednesday, April 15, 2015, 4:00 PM
1027/1128 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 364	Clarify Laws on Exec. Orders and Appointments.	Representative Lewis

Presentations

Other Business

Adjournment



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT
Senator Apodaca, Co-Chair**

Wednesday, April 15, 2015

Senator Apodaca,
submits the following with recommendations as to passage:

FAVORABLE

HB 364

Clarify Laws on Exec. Orders and Appointments.

Draft Number: None

Sequential Referral: None

Recommended Referral: None

Long Title Amended: No

TOTAL REPORTED: 1

Senator Tom Apodaca will handle HB 364



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**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

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HOUSE BILL 364*

Short Title: Clarify Laws on Exec. Orders and Appointments. (Public)

Sponsors: Representative Lewis (Primary Sponsor).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Rules, Calendar, and Operations of the House.

March 26, 2015

A BILL TO BE ENTITLED
AN ACT TO CLARIFY THE CONFLICT OF INTEREST PROVISIONS FOR CERTAIN
COMMISSIONS AND TO MODIFY APPOINTMENTS TO SEVERAL STATE
BOARDS AND COMMISSIONS.

Whereas, the Environmental Management Commission was established by Section 19 of S.L. 1973-1262, effective July 1, 1974; and

Whereas, as provided in G.S. 143B-282(a), the Environmental Management Commission was established with the power and duty to promulgate rules for the protection, preservation, and enhancement of the water and air resources of the State; and

Whereas, the membership of the Environmental Management Commission was established by Section 20 of S.L. 1973-1262; and

Whereas, subdivision (9) of subsection (a) of Section 20 of S.L. 1973-1262 provided, "The Governor, by executive order, shall promulgate criteria for determining the eligibility of persons under this section and for this purpose, may promulgate the rules, regulations or guidelines established by any federal agency interpreting and applying equivalent provisions of law."; and

Whereas, Section 5 of S.L. 1979-1158 amended the provision enacted by subdivision (9) of subsection (a) of Section 20 of S.L. 1973-1262 to also provide, "The Governor shall require adequate disclosure of potential conflicts of interest by members. The Governor, by executive order, shall promulgate criteria regarding conflicts of interest and disclosure thereof for determining the eligibility of persons under this section, giving due regard to the requirements of federal legislation, and for this purpose may promulgate rules, regulations or guidelines in conformance with those established by any federal agency interpreting and applying provisions of federal law."; and

Whereas, the provision enacted by subdivision (9) of subsection (a) of Section 20 of S.L. 1973-1262, as subsequently amended, currently provides in G.S. 143B-283(c), "The Governor shall require adequate disclosure of potential conflicts of interest by members. The Governor, by executive order, shall promulgate criteria regarding conflicts of interest and disclosure thereof for determining the eligibility of persons under this subsection, giving due regard to the requirements of federal legislation, and for this purpose may promulgate rules, regulations or guidelines in conformance with those established by any federal agency interpreting and applying provisions of federal law."; and

Whereas, the Coastal Resources Commission was established by Section 1 of S.L. 1973-1284, effective July 1, 1974; and





1 Whereas, the Coastal Resources Commission was established to implement the
2 Coastal Area Management Act of 1974; and

3 Whereas, as provided in G.S. 113A-102(b), the goals of the Coastal Area
4 Management Act include management of the natural coastal systems in order to protect and
5 maintain their natural productivity and their biological, economic, and esthetic values and
6 management of development and preservation of the land and water resources of the coastal
7 area in a manner consistent with the capability of the land and water for development, use, or
8 preservation based on ecological considerations; and

9 Whereas, the membership of the Coastal Resources Commission was established by
10 Section 1 of S.L. 1973-1284; and

11 Whereas, Section 1 of S.L. 1989-505 amended the membership provisions
12 established by Section 1 of S.L. 1973-1284 to provide, "The Governor shall require adequate
13 disclosure of potential conflicts of interest by members. The Governor, by executive order,
14 shall promulgate criteria regarding conflicts of interest and disclosure thereof for determining
15 the eligibility of persons under this section."; and

16 Whereas, the provision enacted by Section 1 of S.L. 1973-1284, as subsequently
17 amended, currently provides, "The Governor shall require adequate disclosure of potential
18 conflicts of interest by these members. The Governor, by executive order, shall promulgate
19 criteria regarding conflicts of interest and disclosure thereof for determining the eligibility of
20 persons under this subsection."; and

21 Whereas, the Coal Ash Management Commission was established by Section 3.(a)
22 of S.L. 2014-122, effective September 20, 2014; and

23 Whereas, as provided in G.S. 130A-309.202(a), the Coal Ash Management
24 Commission was established in recognition of the complexity and magnitude of the issues
25 associated with the management of coal combustion residuals and the proper closure and
26 remediation of coal combustion residuals surface impoundments; and

27 Whereas, as provided in G.S. 130A-309.213(c), the Coal Ash Management
28 Commission must evaluate all information submitted in accordance with the Coal Ash
29 Management Act related to the proposed classifications of coal combustion residuals surface
30 impoundments and may only approve a proposed classification if it determines that the
31 classification was developed in accordance with the Coal Ash Management Act and that the
32 classification accurately reflects the level of risk posed by the coal combustion residuals
33 surface impoundment; and

34 Whereas, as provided in G.S. 130A-309.214(d), the Coal Ash Management
35 Commission must approve a Closure Plan if it determines that the Closure Plan was developed
36 in accordance with the Coal Ash Management Act, that implementation of the Closure Plan
37 according to the Closure Plan's schedule is technologically and economically feasible, and the
38 Closure Plan is protective of the public health, safety, and welfare; the environment; and
39 natural resources. In addition, the Commission may consider any impact on electricity costs
40 and reliability, but this factor may not be dispositive of the Commission's determination; and

41 Whereas, like the Environmental Management Commission and the Coastal
42 Resources Commission, the Coal Ash Management Commission was established to evaluate
43 complex issues related to the risks posed by environmental contaminants and ensure that the
44 actions taken to manage environmental contaminants are protective of the public health, safety,
45 and welfare; the environment; and natural resources; and

46 Whereas, due to the similar powers and duties shared by the Coal Ash Management
47 Commission with the Environmental Management Commission and the Coastal Resources
48 Commission, the General Assembly modelled many of the provisions establishing the Coal Ash
49 Management Commission on provisions establishing the Environmental Management
50 Commission and the Coastal Resources Commission; and



Whereas, the General Assembly modelled the conflict of interest and disclosure provision of the Coal Ash Management Commission found in G.S. 130A-309.202(j) on the long-standing and unchallenged conflict of interest and disclosure provisions of the Environmental Management Commission and the Coastal Resources Commission; and

Whereas, although the General Assembly finds that measures to prevent conflicts of interest for public servants and to provide abundant disclosure to prevent the appearance of conflicts of interest are of the utmost public good, the General Assembly finds that implementing such measures through issuance of an Executive Order by the Governor is unnecessary and that the Governor may determine that such additional measures are not necessary given the protections provided under Chapter 138A of the General Statutes, the State Government Ethics Act; and

Whereas, the holding of the North Carolina Supreme Court in *Wallace v. Bone*, 304 N.C. 591 (1982), prohibits legislators from serving on certain boards; and

Whereas, since *Wallace v. Bone*, the General Assembly has periodically enacted legislation removing legislators from serving in such capacities when those instances arise; and

Whereas, the General Assembly has determined that legislators are not eligible to serve on certain existing boards and commissions; Now, therefore,
The General Assembly of North Carolina enacts:

PART I. CLARIFY CONFLICT OF INTEREST PROVISIONS

SECTION 1.1. G.S. 130A-309.202 reads as rewritten:

"§ 130A-309.202. (Repealed effective June 30, 2030) Coal Ash Management Commission.

~~(j) Conflicts of Interest; Disclosure. — The Governor shall require adequate disclosure of potential conflicts of interest by members. The Governor, by executive order, shall promulgate criteria regarding conflicts of interest and disclosure thereof for determining the eligibility of persons under this subsection, giving due regard to the requirements of federal legislation and, for this purpose, may promulgate rules, regulations, or guidelines in conformance with those established by any federal agency interpreting and applying provisions of federal law.~~

~~(k) Covered Persons; Conflicts of Interest; Disclosure. — All members of the Commission are covered persons for the purposes of Chapter 138A of the General Statutes, the State Government Ethics Act. As covered persons, members of the Commission shall comply with the applicable requirements of the State Government Ethics Act, including mandatory training, the public disclosure of economic interests, and ethical standards for covered persons. Members of the Commission shall comply with the provisions of the State Government Ethics Act to avoid conflicts of interest. The Governor may require additional disclosure of potential conflicts of interest by members. The Governor may promulgate criteria regarding conflicts of interest and disclosure thereof for determining the eligibility of persons under this subsection, giving due regard to the requirements of federal legislation, and, for this purpose, may promulgate rules, regulations, or guidelines in conformance with those established by any federal agency interpreting and applying provisions of federal law.~~

~~...."~~

SECTION 1.2. G.S. 143B-283 reads as rewritten:

"§ 143B-283. Environmental Management Commission – members; selection; removal; compensation; quorum; services.

~~(e) The Governor shall require adequate disclosure of potential conflicts of interest by members. The Governor, by executive order, shall promulgate criteria regarding conflicts of interest and disclosure thereof for determining the eligibility of persons under this subsection, giving due regard to the requirements of federal legislation, and for this purpose may~~



~~promulgate rules, regulations or guidelines in conformance with those established by any federal agency interpreting and applying provisions of federal law.~~

(c1) All members of the Commission are covered persons for the purposes of Chapter 138A of the General Statutes, the State Government Ethics Act. As covered persons, members of the Commission shall comply with the applicable requirements of the State Government Ethics Act, including mandatory training, the public disclosure of economic interests, and ethical standards for covered persons. Members of the Commission shall comply with the provisions of the State Government Ethics Act to avoid conflicts of interest. The Governor may require additional disclosure of potential conflicts of interest by members. The Governor may promulgate criteria regarding conflicts of interest and disclosure thereof for determining the eligibility of persons under this subsection, giving due regard to the requirements of federal legislation, and, for this purpose, may promulgate rules, regulations, or guidelines in conformance with those established by any federal agency interpreting and applying provisions of federal law.

...."

SECTION 1.3. G.S. 113A-104 reads as rewritten:

"§ 113A-104. Coastal Resources Commission.

(c1) The members of the Commission whose qualifications are described in subdivisions (3), (6), (7), (8), (9), (11), and (12) of subsection (b1) of this section shall be persons who do not derive any significant portion of their income from land development, construction, real estate sales, or lobbying and do not otherwise serve as agents for development-related business activities. ~~The Governor shall require adequate disclosure of potential conflicts of interest by these members. The Governor, by executive order, shall promulgate criteria regarding conflicts of interest and disclosure thereof for determining the eligibility of persons under this subsection.~~

(c2) All members of the Commission are covered persons for the purposes of Chapter 138A of the General Statutes, the State Government Ethics Act. As covered persons, members of the Commission shall comply with the applicable requirements of the State Government Ethics Act, including mandatory training, the public disclosure of economic interests, and ethical standards for covered persons. Members of the Commission shall comply with the provisions of the State Government Ethics Act to avoid conflicts of interest. The Governor may require additional disclosure of potential conflicts of interest by the members described in subsection (c1) of this section. The Governor may promulgate criteria regarding conflicts of interest and disclosure thereof for determining the eligibility of persons described in subsection (c1) of this section.

...."

PART II. BRING VARIOUS BOARDS INTO WALLACE V. BONE COMPLIANCE

SECTION 2.1. G.S. 116E-3 reads as rewritten:

"§ 116E-3. North Carolina Longitudinal Data System Board.

(a) There is established the North Carolina Longitudinal Data System Board which shall consist of the following 18 members:

- (1) The Superintendent of Public Instruction, or the Superintendent's designee.
- (2) The President of The University of North Carolina, or the President's designee.
- (3) The President of the North Carolina Community College System, or the President's designee.
- (4) The Secretary of the Department of Health and Human Services, or the Secretary's designee.



- (5) The Assistant Secretary of the Department of Commerce, Division of Employment Security, or the Assistant Secretary's designee.
- (6) The Secretary of the Department of Revenue, or the Secretary's designee.
- (7) The Commissioner of Labor, or the Commissioner's designee.
- (8) The President of the North Carolina Independent Colleges and Universities, Inc., or the President's designee.
- (9) The Commissioner of Motor Vehicles, Department of Transportation, or the Commissioner's designee.
- (10) The State Chief Information Officer.
- (11) The State Controller, or the Controller's designee.
- (12) Three public members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate.
- (13) Three public members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.
- (14) One public member appointed by the Governor, to serve at the Governor's pleasure."

SECTION 2.2. G.S. 143B-394.15(c) reads as rewritten:

"(c) Membership. – The Commission shall consist of 39 members, who reflect the geographic and cultural regions of the State, as follows:

- (1) Nine persons appointed by the Governor, one of whom is a clerk of superior court; one of whom is an academician who is knowledgeable about domestic violence trends and treatment; one of whom is a member of the medical community; one of whom is a United States Attorney for the State of North Carolina or that person's designee; one of whom is a member of the North Carolina Bar Association who has studied domestic violence issues; one of whom is a representative of a victims' service program eligible for funding by the Governor's Crime Commission or the North Carolina Council for Women; one of whom is a member of the North Carolina Coalition Against Domestic Violence; one of whom is a former victim of domestic violence; and one of whom is a member of the public at large.
- (2) Nine persons appointed by the General Assembly, upon recommendation of the President Pro Tempore of the Senate, ~~one of whom is a member of the Senate;~~ one of whom is a district court judge; one of whom is a district attorney or assistant district attorney; one of whom is a representative of the law enforcement community with specialized knowledge of domestic violence issues; one of whom is a county manager; one of whom is a representative of a community legal services agency who works with domestic violence victims; one of whom is a representative of the linguistic and cultural minority communities; one of whom is a representative of a victims' service program eligible for funding by the Governor's Crime Commission or the North Carolina Council for Women; and ~~one~~ two of whom ~~is a member~~ are members of the public at large.
- (3) Nine persons appointed by the General Assembly, upon recommendation of the Speaker of the House of Representatives, ~~one of whom is a member of the House of Representatives;~~ one of whom is a magistrate; one of whom is a member of the business community; one of whom is a district court judge; one of whom is a representative of a victims' service program eligible for funding by the Governor's Crime Commission or the North Carolina Council for Women; one of whom is a representative of the law enforcement community with specialized knowledge of domestic violence issues; one of whom provides offender treatment and is approved by the North Carolina



Council for Women; one of whom is a representative of the linguistic and cultural minority communities; and ~~one two~~ of whom ~~is a public member~~ are members of the public at large.

...."

SECTION 2.3(a) G.S. 143B-1100(a)(1) reads as rewritten:

"(a) There is hereby created the Governor's Crime Commission of the Department of Public Safety. The Commission shall consist of 37 voting members and five nonvoting members. The composition of the Commission shall be as follows:

(1) The voting members shall be:

...

d. ~~Two members of the North Carolina House of Representatives and two members of the North Carolina Senate. Four public members.~~"

SECTION 2.3(b) G.S. 143B-1100(b)(4) reads as rewritten:

"(4) ~~The two members of the House of Representatives~~ Two public members provided by subdivision (a)(1)d. of this section shall be appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives and the two members of the Senate ~~two public members~~ provided by subdivision (a)(1)d. of this section shall be appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate. ~~These members shall perform the advisory review of the State plan for the General Assembly as permitted by section 206 of the Crime Control Act of 1976 (Public Law 94-503).~~"

SECTION 2.4. G.S. 120-123 reads as rewritten:

"§ 120-123. Service by members of the General Assembly on certain boards and commissions.

No member of the General Assembly may serve on any of the following boards or commissions:

...

(81) The North Carolina Longitudinal Data System Board, as established in G.S. 116E-3.

(82) The Domestic Violence Commission, as established in Part 10C of Article 9 of Chapter 143B of the General Statutes.

(83) The Governor's Crime Commission of the Department of Public Safety, as established in G.S. 143B-1100."

PART III. EFFECTIVE DATE

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



HOUSE BILL 364: Clarify Laws on Exec. Orders and Appointments

2015-2016 General Assembly

Committee: Rules and Operations of the Senate
Introduced by: Rep. Lewis
Analysis of: First Edition

Date: April 14, 2015
Prepared by: Giles S. Perry
Committee Counsel

SUMMARY: *House Bill 364 would amend conflict of interest provisions applicable to the Coal Ash Management Commission, the Environmental Review Commission, and the Coastal Resources Commission. It would also modify appointments to the North Carolina Longitudinal Data System Board, the Domestic Violence Commission, and the Governor's Crime Commission to remove members who are also members of the General Assembly.*

[As introduced, this bill was identical to S514, as introduced by Sen. Apodaca, which is currently in Rules and Operations of the Senate.]

BILL ANALYSIS:

Sections 1.1, 1.2, and 1.3 would amend conflict of interest provisions applicable to members of the Coal Ash Management Commission, the Environmental Review Commission, and the Coastal Resources Commission, by deleting a requirement that the Governor issue an executive order promulgating conflict of interest rules applicable to those Commissions. The repealed language would be replaced with language authorizing the Governor to require additional disclosure of conflict of interest and to promulgate additional criteria concerning conflict of interest and disclosure thereof for determining eligibility for membership.

Sections 2.1, 2.2 and 2.3 modify the membership of the North Carolina Longitudinal Data System Board, the Domestic Violence Commission, and Governor's Crime Commission of the Department of Public Safety, by removing members of the General Assembly and replacing them with public members. **Section 2.4** is a conforming change, adding these three boards and commissions to list of those boards and commissions on which no member of the General Assembly may serve.

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





VISITOR REGISTRATION SHEET

Senate Rules + Operations
(Committee Name)

4/15/2015
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY
Jimmy Blanton	ZK
Grady Bledie	NL Security detail
Jim Winnie	UNC-CH
GERRY COHEN	Nelson Mullins
Preston Howard	NICMA
Wesley Ford	N/GA
Jake Carl	ACC



VISITOR REGISTRATION SHEET

Senate Rules & Operations

(Committee Name)

4/15/2015

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY
Mike Woodard	NC Senate
Mark Bibbs	Long Leaf Pine Consulting
Susan Vee	Duke E
Tracy Kimbrell	Parker Poe
Cady Thomas	Focus Carolina
Wendy Kelly	Focus - Carolina
W. J. Byrd	ILCA
Dr. Amy Hawkins	NRNP
Phyllis J. Duke	Gov's Office



MINUTES

Rules and Operations of the Senate

June 10, 2015

The Rules and Operations of the Senate committee met on June 06th, 2015, at 9:30 a.m. The meeting was held in room 1027/1028 of the Legislative Building. Fourteen members of the committee were present. Senator Tom Apodaca presided.

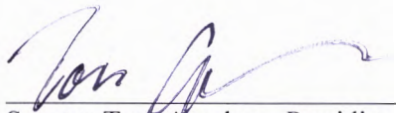
Senator Apodaca introduced the Pages and the Sergeant at Arms.

Senator Apodaca brought forth the items on the agenda:

HB339: Add Fonta Flora Trail to State Parks System- Senator Daniel explained the bill. Senator Tucker moved for a favorable report. Motion carried.

HB836: Local Government Regulatory Reform- Senator Brock moved to bring the PCS before the committee, entitled, "Election Reform". Motion carried. Representative Lewis explained the PCS. Senator Apodaca opened up the floor for questions. Senator Tucker moved for unfavorable to the original bill, favorable to the Senate committee substitute bill. Motion carried.

The meeting adjourned at 10:08 a.m.



Senator Tom Apodaca, Presiding

Laura Kilian, Committee Assistant



Principal Clerk
Reading Clerk

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Rules and Operations of the Senate** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	June 10, 2015	9:30 AM	1027/1128 LB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 836	Local Government Regulatory Reform.	Representative Robinson Representative Bishop Representative Fraley
HB 339	Add Fonta Flora Trail to State Parks System.	Representative Blackwell

Senator Tom Apodaca, Chair



**Senate Committee on Rules and Operations of the Senate
Wednesday, June 10, 2015, 9:30 AM
1027/1128 Legislative Building**

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 836	Local Government Regulatory Reform.	Representative Robinson Representative Bishop Representative Fraley Representative Blackwell
HB 339	Add Fonta Flora Trail to State Parks System.	

Presentations

Other Business

Adjournment



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT
Senator Apodaca, Co-Chair**

Wednesday, June 10, 2015

Senator Apodaca,
submits the following with recommendations as to passage:

FAVORABLE

HB 339 Add Fonta Flora Trail to State Parks System.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO
SENATE COMMITTEE SUBSTITUTE BILL**

HB 836 (CS#1) Local Government Regulatory Reform.
Draft Number: H836-PCS10395-ST-59
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

TOTAL REPORTED: 2

Senator Warren Daniel will handle HB 339
Senator Andrew Brock will handle HB 836



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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 339*

Short Title: Add Fonta Flora Trail to State Parks System. (Public)

Sponsors: Representative Blackwell (Primary Sponsor).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Environment.

March 25, 2015

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ADDITION OF THE FONTA FLORA LOOP TRAIL IN
BURKE COUNTY TO THE STATE PARKS SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. The General Assembly finds that a hiking and biking trail around Lake James in Burke County would provide a multitude of economic, recreational, health, environmental, community and transportation benefits. The General Assembly further finds that a number of federal, State, local and private partners have expressed substantial interest in completing such a trail; that such a trail would be a recreational resource of statewide significance; and that including such a trail in the State Parks System as a State Trail would be beneficial to the people of North Carolina and further the development of North Carolina as "The Great Trails State."

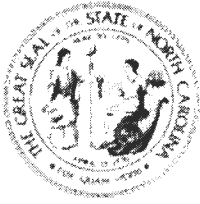
SECTION 2. The General Assembly authorizes the Department of Environment and Natural Resources to add the Fonta Flora Loop Trail to the State Parks System as provided in G.S. 113-44.14(b). The Department shall support, promote, encourage, and facilitate the establishment of trail segments on State park lands and on lands of other federal, State, local, and private landowners. On segments of the Fonta Flora Loop Trail that cross property controlled by agencies or owners other than the Department's Division of Parks and Recreation, the laws, rules, and policies of those agencies or owners shall govern the use of the property.

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



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HOUSE BILL 339: Add Fonta Flora Trail to State Parks System

2015-2016 General Assembly

Committee: Rules and Operations of the Senate
Introduced by: Rep. Blackwell
Analysis of: First Edition

Date: June 10, 2015
Prepared by: Jennifer McGinnis
Staff Attorney

SUMMARY: *House Bill 339 would authorize the Department of Environment and Natural Resources (DENR) to add the Fonta Flora Loop Trail to the State Parks System.*

[As introduced, this bill was identical to S221, as introduced by Sen. Daniel, which is currently in Senate Agriculture/Environment/Natural Resources.]

CURRENT LAW: G.S. 113-44.14(b) provides that the Department 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.

BILL ANALYSIS: The bill would authorize DENR to add the Fonta Flora Loop Trail to the State Parks System, and direct DENR to support, promote, encourage, and facilitate the establishment of trail segments on State park lands and on lands of other federal, State, local, and private landowners. The bill specifically provides that on segments of the Fonta Flora Loop Trail that cross property controlled by agencies or owners other than DENR's Division of Parks and Recreation, the laws, rules, and policies of those agencies or owners would govern the use of the property.

BACKGROUND: The Fonta Flora Loop Trail would surround Lake James in Burke County. See attached memo supplied by DENR.

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

O. Walker Reagan
Director



Research Division
(919) 733-2578



HB 339 Add Fonta Flora State Trail to State Parks System

Burke County initiated the idea for a loop trail around Lake James, and the county has been working with landowners and partners around the lake to plan and implement the trail. In addition to the county, partners include Duke Energy Carolinas, Crescent Communities, NC Wildlife Resources Commission, NC DOT, Foothills Land Conservancy, Lake James State Park and several others. Burke County has prepared the *Lake James Loop Trail Master Plan*, which shows that the concept for the trail is well-developed, and the partners are committed to providing right-of-way for the trail on their respective properties. The Division of Parks and Recreation supports the trail concept, but suggested a different name to make clear that the proposed State Trail was to be administratively separate from Lake James State Park.

The benefit of authorizing the addition of the trail to the State Parks System is the added recognition and publicity provided by including the trail on the Division of Parks and Recreation website, maps, brochures and other public information, as well as the enhanced ability of the state to help coordinate and facilitate the work of the other partners.

The State Parks Act (GS 113-44.9) defines the types of units in the State Parks System to include State Parks, State Natural Areas, State Recreation Areas, State Trails, State Rivers and State Lakes. **The proposed Fonta Flora would be a State Trail, not a State Park.** Whereas a State Park is operated and managed by the Division of Parks and Recreation, a State Trail represents a partnership among multiple agencies, landowners and local governments, working together to implement a shared vision. Part of a State Trail may be managed by the Division of Parks and Recreation, but segments of the trail that cross property controlled by others will continue to be managed by those other landowners.

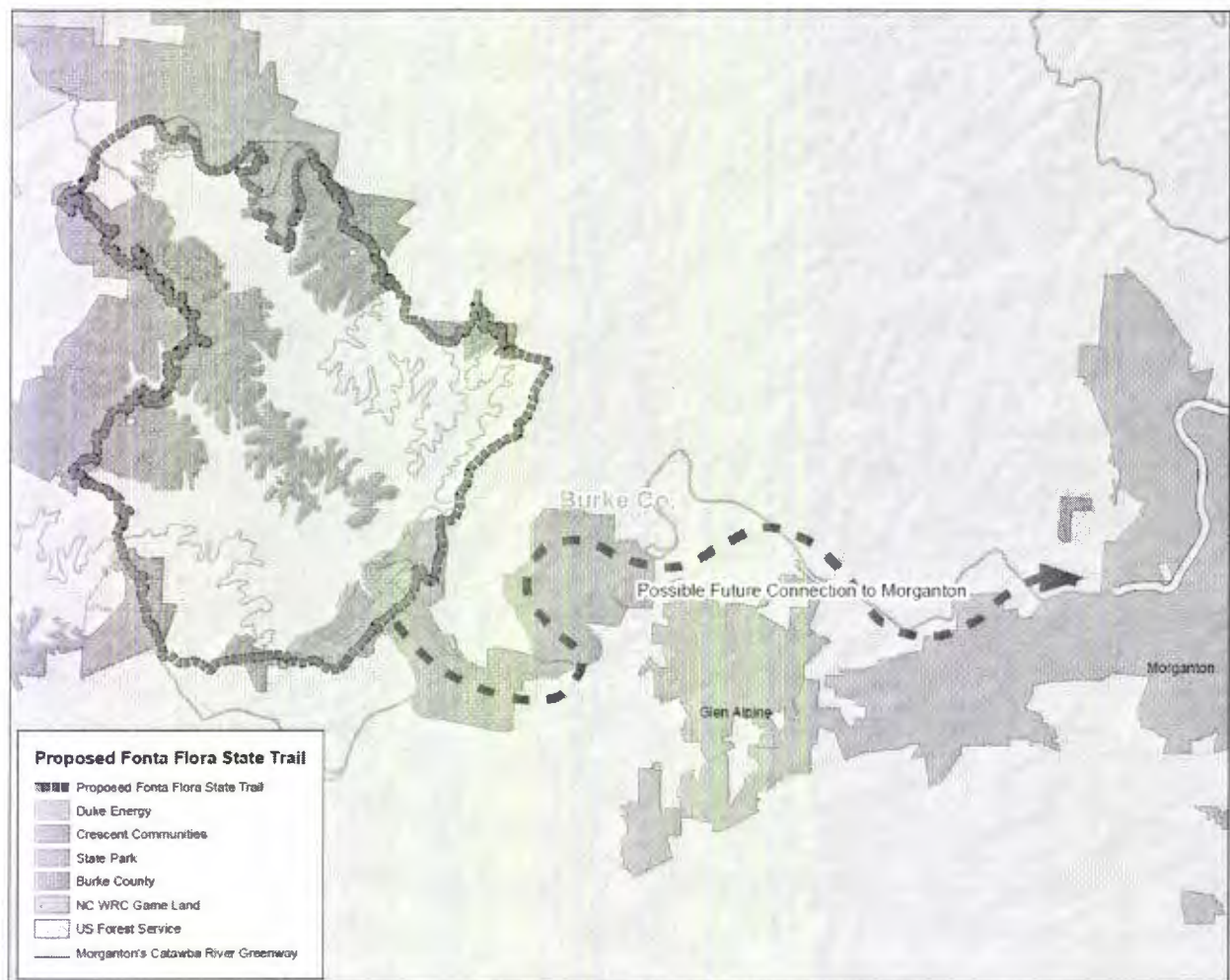
In the case of the proposed Fonta Flora State Trail, part of the trail would cross through Lake James State Park. That part of the trail will be built, maintained and operated as part of the existing park. Other portions of the trail will cross lands owned by the county and other partners, and these portions of the trail will continue to be built, maintained and operated by those partners.

Funds for building and maintaining trail within Lake James State Park will be obtained from the Parks and Recreation Trust Fund or other sources that currently fund any trail work within the state parks. The loop trail around the lake was contemplated when the Lake James State Park master plan was completed in 2006, and construction of the loop segment within the park is an anticipated expense in development of the park.

Funds for building and maintaining trail outside the state park boundaries will be obtained by other partners. Burke County is eligible to apply for grant funding from the local share of the Parks and Recreation Trust Fund, the federal Recreational Trails Program and other sources. Authorization of the Fonta Flora State Trail may improve their ability to receive grants.

In summary, authorization of the Fonta Flora State Trail is not expected to result in any significant additional costs to the Division of Parks and Recreation. Existing staff would work with trail partners to coordinate and publicize the trail. Existing sources of funding would be used to build and maintain segments of trail on state park land, and other partners would be responsible for building and maintaining trail segments outside park boundaries. Authorization of Fonta Flora State Trail may provide higher priority for grant funding to local and private partners.

The Division of Parks and Recreation suggests naming the trail “Fonta Flora State Trail” rather than “Fonta Flora Loop Trail”. Someday, an extension of the trail to Morganton may be feasible.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 836
Committee Substitute Favorable 4/27/15

Short Title: Local Government Regulatory Reform.

(Public)

Sponsors:

Referred to:

April 15, 2015

A BILL TO BE ENTITLED

AN ACT TO PROVIDE REGULATORY RELIEF FOR LOCAL GOVERNMENTS BY
AUTHORIZING CITIES TO RESERVE CERTAIN EASEMENTS WHEN
PERMANENTLY CLOSING STREETS AND ALLEYS; BY REPEALING THE
REQUIREMENT FOR LICENSING OF GOING OUT OF BUSINESS SALES BY
LOCAL GOVERNMENTS; BY PROVIDING FOR ELECTRONIC SUBMISSION OF
ABSENTEE BALLOT LISTS BY COUNTY BOARDS OF ELECTION; BY
AUTHORIZING THE POTENTIAL USE OF NEW TECHNOLOGY FOR PAPER
BALLOTS; AND BY EXEMPTING LOCAL GOVERNMENT REGULAR PAYROLL
AND BENEFITS PAYMENTS FROM PREAUDIT CERTIFICATION
REQUIREMENTS.

The General Assembly of North Carolina enacts:

CLARIFY EASEMENT RESERVATION AUTHORITY FOR CITIES CLOSING
STREETS AND ALLEYS

SECTION 1. G.S. 160A-299 reads as rewritten:

"§ 160A-299. Procedure for permanently closing streets and alleys.

...

(f) A city may reserve its—a right, title, and interest in any utility
improvement~~improvements~~ or ~~easement~~ easements within a street closed pursuant to this
section. ~~Such—~~An easement under this subsection shall include utility, drainage, pedestrian,
landscaping, conservation, or other easements considered by the city to be in the public interest.
The reservation of an easement under this subsection shall be stated in the order of closing.
~~Such—~~The reservation also extends to utility improvements or easements owned by private
utilities which at the time of the street closing have a utility agreement or franchise with the
city.

...."

REPEAL LICENSING FOR GOING OUT OF BUSINESS/DISTRESS SALES

SECTION 2.(a) G.S. 66-77 is repealed.

SECTION 2.(b) G.S. 66-80 reads as rewritten:

"§ 66-80. Continuation of sale or business beyond termination date.

No person shall conduct a closing-out sale or a sale of goods, wares or merchandise
damaged by fire, smoke, water or otherwise or a distress sale beyond the termination date
specified for such sale, ~~except as otherwise provided for in subsection (b) of G.S. 66-77; sale;~~
nor shall any person, upon conclusion of such sale, continue that business which had been



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represented as closing out or going out of business under the same name, or under a different name, at the same location, or elsewhere in the same city or town where the inventory for such sale was filed for a period of 12 months; nor shall any person, upon conclusion of such sale, continue business contrary to the designation of such sale. As used in this section, the term "person" includes individuals, partnerships, corporations, and other business entities. If a business entity that is prohibited from continuing a business under this section reformulates itself as a new entity or as an individual, whether by sale, merger, acquisition, bankruptcy, dissolution, or any other transaction, for the purpose of continuing the business, the successor entity or individual shall be considered the same person as the original entity for the purpose of this section. If an individual who is prohibited from continuing a business under this section forms a new business entity to continue the business, that entity shall be considered the same person as the individual for the purpose of this section."

SECTION 2.(c) This section becomes effective July 1, 2015.

ELECTRONIC REPORTING FOR COUNTY BOARDS OF ELECTIONS

SECTION 3.(a) G.S. 163-232 reads as rewritten:

"§ 163-232. Certified list of executed absentee ballots; distribution of list.

The county board of elections shall prepare, or cause to be prepared, a list in at least quadruplicate, of all absentee ballots returned to the county board of elections to be counted, which have been approved by the county board of elections, and which have been received as of 5:00 p.m. on the day before the election. At the end of the list, the chairman shall execute the following certificate under oath:

"State of North Carolina

County of _____

I, _____, chairman of the _____ County board of elections, do hereby certify that the foregoing is a list of all executed absentee ballots to be voted in the election to be conducted on the _____ day of _____, _____, which have been approved by the county board of elections and which have been returned no later than 5:00 p.m. on the day before the election. I certify that the chairman, member, officer, or employee of the board of elections has not delivered ballots for absentee voting to any person other than the voter, by mail or by commercial courier service or in person, except as provided by law, and have not mailed or delivered ballots when the request for the ballot was received after the deadline provided by law.

This the _____ day of _____, _____

(Signature of chairman of
county board of elections)

Sworn to and subscribed before me this _____ day of _____, _____.

Witness my hand and official seal.

(Signature of officer
administering oath)

(Title of officer)"

No later than 10:00 a.m. on election day, the county board of elections shall cause one copy of the list of executed absentee ballots, which may be a continuing countywide list or a separate list for each precinct, to be immediately (i) submitted electronically in a manner approved by the State Board of Elections or (ii) deposited as "first-class" mail to the State Board of Elections. The board shall retain one copy in the board office for public inspection and the board shall cause two copies of the appropriate precinct list to be delivered to the chief judge of each precinct in the county. The county board of elections shall be authorized to call upon the



1 sheriff of the county to distribute the list to the precincts. In addition the county board of
2 elections shall, upon request, provide a copy of the complete list to the chairman of each
3 political party, recognized under the provisions of G.S. 163-96, represented in the county.

4 The chief judge shall post one copy of the list immediately in a conspicuous location in the
5 voting place and retain one copy until all challenges of absentee ballots have been heard by the
6 county board of elections. Challenges shall be made to absentee ballots as provided in
7 G.S. 163-89.

8 After receipt of the list of absentee voters required by this section the chief judge shall call
9 the name of each person recorded on the list and enter an "A" in the appropriate voting square
10 on the voter's permanent registration record, or a similar entry on the computer list used at the
11 polls. If such person is already recorded as having voted in that election, the chief judge shall
12 enter a challenge which shall be presented to the county board of elections for resolution by the
13 board of elections prior to certification of results by the board.

14 All lists required by this section shall be retained by the county board of elections for a
15 period of 22 months after which they may then be destroyed."

16 **SECTION 3.(b)** G.S. 163-232.1(c) reads as rewritten:

17 "(c) The board shall post one copy of the most current version of each list in the board
18 office in a conspicuous location for public inspection and shall retain one copy until all
19 challenges of absentee ballots have been heard by the county board of elections. The county
20 board of elections shall cause one copy of each of the final lists of executed absentee ballots
21 required under subsection (a) and subsection (b) of this section to be (i) submitted
22 electronically in a manner approved by the State Board of Elections or (ii) deposited as
23 "first-class" mail to the State Board of Elections. The final lists shall be electronically
24 submitted or mailed no later than 10:00 a.m. of the next business day following the deadline for
25 receipt of such absentee ballots. Challenges shall be made to absentee ballots as provided in
26 G.S. 163-89. In addition the county board of elections shall, upon request, provide a copy of
27 each of the lists to the chairman of each political party, recognized under the provisions of
28 G.S. 163-96, represented in the county."

30 ALLOW NEW TECHNOLOGY FOR PAPER BALLOTS

31 **SECTION 4.(a)** G.S. 163-165 reads as rewritten:

32 "§ 163-165. Definitions.

33 In addition to the definitions stated below, the definitions set forth in Article 15A of
34 Chapter 163 of the General Statutes also apply to this Article. As used in this Article:

35 (1) **(Effective until January 1, 2018)** "Ballot" means an instrument on which a
36 voter indicates a-that voter's choice for a ballot item so that it may be
37 recorded as a vote for or against a certain candidate or referendum proposal.
38 The term "ballot" may include a paper ballot to be counted by hand, a paper
39 ballot to be counted on an electronic scanner, the face of a lever voting
40 machine, the image on a direct record electronic unit, or a ballot used on any
41 other voting system.

42 (1) **(Effective January 1, 2018)** "Ballot" means an instrument on which a voter
43 indicates a-that voter's choice for a ballot item so that it may be recorded as a
44 vote for or against a certain candidate or referendum proposal. The term
45 "ballot" may include a paper ballot to be counted by hand, a paper ballot to
46 be counted on an electronic scanner, or a paper ballot used on any other
47 voting system.

48 (2) "Ballot item" means a single item on a ballot in which the voters are to
49 choose between or among the candidates or proposals listed.

50 (3) "Ballot style" means the version of a ballot within a jurisdiction that an
51 individual voter is eligible to vote. For example, in a county that uses



essentially the same official ballot, a group office such as county commissioner may be divided into districts so that different voters in the same county vote for commissioner in different districts. The different versions of the county's official ballot containing only those district ballot items one individual voter may vote are the county's different ballot styles.

(4) "Election" means the event in which voters cast votes in ballot items concerning proposals or candidates for office in this State or the United States. The term includes primaries, general elections, referenda, and special elections.

(5) "Official ballot" means a ballot that has been certified by the State Board of Elections and produced by or with the approval of the county board of elections and may include ballots indicating choices of an individual voter selected electronically and printed in the voting place. The term does not include a sample ballot or a specimen ballot.

(5a) **(Effective January 1, 2018)** "Paper ballot" means an individual paper document that bears marks made by the voter by hand or through electronic means.

(6) "Provisional official ballot" means an official ballot that is voted and then placed in an envelope that contains an affidavit signed by the voter certifying identity and eligibility to vote. Except for its envelope, a provisional official ballot shall not be marked to make it identifiable to the voter.

(7) "Referendum" means the event in which voters cast votes for or against ballot questions other than the election of candidates to office.

(8) "Voting booth" means the private space in which a voter is to mark an official ballot.

(9) "Voting enclosure" means the room within the voting place that is used for voting.

(10) "Voting place" means the building or area of the building that contains the voting enclosure.

(11) "Voting system" means a system of casting and tabulating ballots. The term includes systems of paper ballots counted by hand as well as systems utilizing mechanical and electronic voting equipment."

SECTION 4.(b) G.S. 163-165.5 reads as rewritten:

"§ 163-165.5. Contents of official ballots.

(a) ~~Each~~Except as provided in this section, each official ballot shall contain all the following elements:

(1) The heading prescribed by the State Board of Elections. The heading shall include the term "Official Ballot".

(2) The title of each office to be voted on and the number of ~~seats to be filled~~votes allowed in each ballot item.

(3) The names of the candidates as they appear on their notice of candidacy filed pursuant to G.S. 163-106 or G.S. 163-323, or on petition forms filed in accordance with G.S. 163-122. No title, appendage, or appellation indicating rank, status, or position shall be printed on the official ballot in connection with the candidate's name. Candidates, however, may use the title Mr., Mrs., Miss, or Ms. Nicknames shall be permitted on an official ballot if used in the notice of candidacy or qualifying petition, but the nickname shall appear according to standards adopted by the State Board of Elections. Those standards shall allow the presentation of legitimate nicknames in ways that do not mislead the voter or unduly advertise the candidacy. In the case of candidates for presidential elector, the official ballot shall not contain the



names of the candidates for elector but instead shall contain the nominees for President and Vice President which the candidates for elector represent. The State Board of Elections shall establish a review procedure that local boards of elections shall follow to ensure that candidates' names appear on the official ballot in accordance with this subdivision.

(4) Party designations in partisan ballot items.

(5) A means by which the voter may cast write-in votes, as provided in G.S. 163-123. No space for write-ins is required unless a write-in candidate has qualified under G.S. 163-123 or unless the ballot item is exempt from G.S. 163-123.

(6) Instructions to voters, unless the State Board of Elections allows instructions to be placed elsewhere than on the official ballot.

(7) The printed title and facsimile signature of the chair of the county board of elections.

(b) Notwithstanding subsection (a) of this section, an official ballot created and printed by use of a voting system in the voting place shall be counted if all of the following apply:

(1) Each of the following are printed on that official ballot:

a. The date of the election.

b. The precinct name or a unique identification code associated with that ballot style.

c. The choices made by the voter for all ballot items in which the voter cast a vote.

(2) The electronic display of the voting system seen by the voter contains all of the information required by subsection (a) of this section.

(3) The voter is capable of reviewing the printed official ballot, and voiding that ballot, prior to casting that voter's ballot.

(4) The voter's choices in and on the electronic display are removed prior to the next voter using that voting equipment."

PREAUDIT CERTIFICATIONS

SECTION 5.(a) G.S. 159-28 reads as rewritten:

"§ 159-28. Budgetary accounting for appropriations.

(a) Incurring Obligations. – No obligation may be incurred in a program, function, or activity accounted for in a fund included in the budget ordinance unless the budget ordinance includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year. No obligation may be incurred for a capital project or a grant project authorized by a project ordinance unless that project ordinance includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay the sums obligated by the transaction. Nothing in this section shall require a contract to be reduced to writing.

(a1) Preaudit Requirement. – If an obligation is evidenced by reduced to a written contract or written agreement requiring the payment of money-money, or is evidenced by a written purchase order for supplies and materials, the written contract, agreement, or purchase order shall include on its face a certificate stating that the instrument has been preaudited to assure compliance with this subsection unless the obligation or a document related to the obligation has been approved by the Local Government Commission, in which case no certificate shall be required. (a) of this section. The certificate, which shall be signed by the finance officer-officer, or any deputy finance officer approved for this purpose by the governing board, shall take substantially the following form:



"This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

(Signature of finance officer)."

~~Certificates in the form prescribed by G.S. 153-130 or 160-411 as those sections read on June 30, 1973, or by G.S. 159-28(b) as that section read on June 30, 1975, are sufficient until supplies of forms in existence on June 30, 1975, are exhausted.~~

(a2) Failure to Preaudit. – An obligation incurred in violation of this subsection subsection (a) or (a1) of this section is invalid and may not be enforced. The finance officer shall establish procedures to assure compliance with this subsection-section, in accordance with any rules adopted by the Local Government Commission.

(b) Disbursements. – When a bill, invoice, or other claim against a local government or public authority is presented, the finance officer shall either approve or disapprove the necessary disbursement. If the claim involves a program, function, or activity accounted for in a fund included in the budget ordinance or a capital project or a grant project authorized by a project ordinance, the finance officer may approve the claim only if both of the following apply:

(1) ~~He~~ The finance officer determines the amount to be payable and payable.

(2) The budget ordinance or a project ordinance includes an appropriation authorizing the expenditure and either (i) an encumbrance has been previously created for the transaction or (ii) an unencumbered balance remains in the appropriation sufficient to pay the amount to be disbursed.

The finance officer may approve a bill, invoice, or other claim requiring disbursement from an intragovernmental service fund or trust or agency fund not included in the budget ordinance, only if the amount claimed is determined to be payable. A bill, invoice, or other claim may not be paid unless it has been approved by the finance officer or, under subsection (c) of this section, by the governing board. The finance officer shall establish procedures to assure compliance with this subsection-subsection, in accordance with any rules adopted by the Local Government Commission.

(c) Governing Board Approval of Bills, Invoices, or Claims. – The governing board may, as permitted by this subsection, approve a bill, invoice, or other claim against the local government or public authority that has been disapproved by the finance officer. ~~It~~ The governing board may not approve a claim for which no appropriation appears in the budget ordinance or in a project ordinance, or for which the appropriation contains no encumbrance and the unencumbered balance is less than the amount to be paid. The governing board shall approve payment by formal resolution stating the board's reasons for allowing the bill, invoice, or other claim. The resolution shall be entered in the minutes together with the names of those voting in the affirmative. The chairman of the ~~board~~ board, or some other member designated for this ~~purpose~~ purpose, shall sign the certificate on the check or draft given in payment of the bill, invoice, or other claim. If payment results in a violation of law, each member of the board voting to allow payment is jointly and severally liable for the full amount of the check or draft given in payment.

(d) Payment. – A local government or public authority may not pay a bill, invoice, salary, or other claim except by any of the following methods:

(1) ~~a check~~ Check or draft on an official ~~depository~~ depository.

(2) ~~a bank~~ Bank wire transfer from an official ~~depository~~ depository.

(3) ~~or an electronic~~ Electronic payment or an electronic funds transfer originated by the local government or public authority through an official depository.

(4) Cash, if the local government has adopted an ordinance authorizing the use of cash, and specifying the limits of the use of cash.



(d1) Except as provided in this ~~subsection~~ section, each check or draft on an official depository shall bear on its face a certificate signed by the finance officer or a deputy finance officer approved for this purpose by the governing board (or signed by the chairman or some other member of the board pursuant to subsection (c) of this section). The certificate shall take substantially the following form:

"This disbursement has been approved as required by the Local Government Budget and Fiscal Control Act.

(Signature of finance officer)."

(d2) An electronic payment or electronic funds transfer ~~must~~ shall be ~~subjected~~ subject to the ~~pre-audit process~~. Execution ~~preaudit~~ process in accordance with this section and any rules adopted by the Local Government Commission. The rules so adopted shall address execution of the electronic payment or electronic funds transfer ~~shall~~ and how to indicate that the finance officer or duly appointed deputy finance officer has performed the ~~pre-audit~~ preaudit process as required by G.S. 159-28(a) in accordance with this section. A finance officer or duly appointed deputy finance officer shall be presumed in compliance with this section if the finance officer or duly appointed deputy finance officer complies with the rules adopted by the Local Government Commission.

~~Certificates in the form prescribed by G.S. 153-131 or 160-411.1 as those sections read on June 30, 1973, or by G.S. 159-28(a) as that section read on June 30, 1975, are sufficient until supplies in existence on June 30, 1975, are exhausted.~~

~~No certificate is required on payroll checks or drafts on an imprest account in an official depository, if the check or draft depositing the funds in the imprest account carried a signed certificate.~~

~~As used in this subsection, the term "electronic payment" means payment by charge card, credit card, debit card, or by electronic funds transfer, and the term "electronic funds transfer" means a transfer of funds initiated by using an electronic terminal, a telephone, a computer, or magnetic tape to instruct or authorize a financial institution or its agent to credit or debit an account.~~

(e) Penalties. – If an officer or employee of a local government or public authority incurs an obligation or pays out or causes to be paid out any funds in violation of this section, ~~he that officer or employee~~, and the sureties on ~~his~~ any official bond for that officer or employee, are liable for any sums so committed or disbursed. If the finance officer or any properly designated duly appointed deputy finance officer gives a false certificate to any contract, agreement, purchase order, check, draft, or other document, ~~he the finance officer or duly appointed deputy finance officer~~, and the sureties on ~~his~~ any official ~~bond~~ bond, are liable for any sums illegally committed or disbursed thereby. The governing board shall determine, by resolution, if payment from the official bond shall be sought and if the governing body will seek a judgment from the finance officer or duly appointed deputy finance officer for any deficiencies in the amount.

(f) The certifications required by subsections (a1) and (d) of this section shall not apply to any of the following:

(1) An obligation or a document related to the obligation has been approved by the Local Government Commission.

(2) Payroll expenditures, including all benefits for employees of the local government.

(3) Electronic payments, as specified in rules adopted by the Local Government Commission.

(g) As used in this section, the following terms shall have the following meanings:

(1) Electronic payment. – Payment by charge card, credit card, debit card, gas card, procurement card, or electronic funds transfer.



(2) Electronic funds transfer. – A transfer of funds initiated by using an electronic terminal, a telephone, a computer, or magnetic tape to instruct or authorize a financial institution or its agent to credit or debit an account."

SECTION 5.(b) This section becomes effective July 1, 2015, and applies to expenditures incurred on or after that date.

EFFECTIVE DATE

SECTION 6. The remainder of this act is effective when it becomes law.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 836
Committee Substitute Favorable 4/27/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H836-CSST-59 [v.6]

6/9/2015 7:16:14 PM

Short Title: Election Modifications.

(Public)

Sponsors:

Referred to:

April 15, 2015

A BILL TO BE ENTITLED
AN ACT TO AUTHORIZE ELECTRONIC SUBMISSION OF ABSENTEE BALLOT LISTS
BY COUNTY BOARDS OF ELECTION; TO AUTHORIZE THE USE OF NEW
TECHNOLOGY FOR PAPER BALLOTS; TO EXTEND THE TIME FRAME TO
IMPLEMENT THE REQUIREMENT FOR PAPER BALLOTS FROM 2018 TO
SEPTEMBER 1, 2019, FOR COUNTIES THAT USE DIRECT RECORD ELECTRONIC
VOTING MACHINES FOR CURRENT VOTING REQUIREMENTS; AND TO
AUTHORIZE CERTAIN MUNICIPALITIES TO CONDUCT MALT BEVERAGE AND
UNFORTIFIED WINE ELECTIONS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 163-232 reads as rewritten:

"§ 163-232. Certified list of executed absentee ballots; distribution of list.

The county board of elections shall prepare, or cause to be prepared, a list in at least quadruplicate, of all absentee ballots returned to the county board of elections to be counted, which have been approved by the county board of elections, and which have been received as of 5:00 p.m. on the day before the election. At the end of the list, the chairman shall execute the following certificate under oath:

"State of North Carolina

County of _____

I, _____, chairman of the _____ County board of elections, do hereby certify that the foregoing is a list of all executed absentee ballots to be voted in the election to be conducted on the _____ day of _____, _____, which have been approved by the county board of elections and which have been returned no later than 5:00 p.m. on the day before the election. I certify that the chairman, member, officer, or employee of the board of elections has not delivered ballots for absentee voting to any person other than the voter, by mail or by commercial courier service or in person, except as provided by law, and have not mailed or delivered ballots when the request for the ballot was received after the deadline provided by law.

This the _____ day of _____, _____

(Signature of chairman of
county board of elections)

Sworn to and subscribed before me this _____ day of _____, _____.

Witness my hand and official seal.



* H 8 3 6 - C S S T - 5 9 - V - 6 *



(Signature of officer
administering oath)

(Title of officer)"

No later than 10:00 a.m. on election day, the county board of elections shall cause one copy of the list of executed absentee ballots, which may be a continuing countywide list or a separate list for each precinct, to be immediately (i) submitted electronically in a manner approved by the State Board of Elections or (ii) deposited as "first-class" mail to the State Board of Elections. The board shall retain one copy in the board office for public inspection and the board shall cause two copies of the appropriate precinct list to be delivered to the chief judge of each precinct in the county. The county board of elections shall be authorized to call upon the sheriff of the county to distribute the list to the precincts. In addition the county board of elections shall, upon request, provide a copy of the complete list to the chairman of each political party, recognized under the provisions of G.S. 163-96, represented in the county.

The chief judge shall post one copy of the list immediately in a conspicuous location in the voting place and retain one copy until all challenges of absentee ballots have been heard by the county board of elections. Challenges shall be made to absentee ballots as provided in G.S. 163-89.

After receipt of the list of absentee voters required by this section the chief judge shall call the name of each person recorded on the list and enter an "A" in the appropriate voting square on the voter's permanent registration record, or a similar entry on the computer list used at the polls. If such person is already recorded as having voted in that election, the chief judge shall enter a challenge which shall be presented to the county board of elections for resolution by the board of elections prior to certification of results by the board.

All lists required by this section shall be retained by the county board of elections for a period of 22 months after which they may then be destroyed."

SECTION 1.(b) G.S. 163-232.1(c) reads as rewritten:

"(c) The board shall post one copy of the most current version of each list in the board office in a conspicuous location for public inspection and shall retain one copy until all challenges of absentee ballots have been heard by the county board of elections. The county board of elections shall cause one copy of each of the final lists of executed absentee ballots required under subsection (a) and subsection (b) of this section to be (i) submitted electronically in a manner approved by the State Board of Elections or (ii) deposited as "first-class" mail to the State Board of Elections. ~~The final lists shall be electronically submitted or mailed~~ no later than 10:00 a.m. of the next business day following the deadline for receipt of such absentee ballots. Challenges shall be made to absentee ballots as provided in G.S. 163-89. In addition the county board of elections shall, upon request, provide a copy of each of the lists to the chairman of each political party, recognized under the provisions of G.S. 163-96, represented in the county."

SECTION 2.(a) G.S. 163-165 reads as rewritten:

"§ 163-165. Definitions.

In addition to the definitions stated below, the definitions set forth in Article 15A of Chapter 163 of the General Statutes also apply to this Article. As used in this Article:

(1) **(Effective until January 1, 2018)** "Ballot" means an instrument on which a voter indicates ~~a~~that voter's choice for a ballot item so that it may be recorded as a vote for or against a certain candidate or referendum proposal. The term "ballot" may include a paper ballot to be counted by hand, a paper ballot to be counted on an electronic scanner, the face of a lever voting machine, the image on a direct record electronic unit, or a ballot used on any other voting system.



- (1) **(Effective January 1, 2018)** "Ballot" means an instrument on which a voter indicates ~~a that voter's choice~~ for a ballot item so that it may be recorded as a vote for or against a certain candidate or referendum proposal. The term "ballot" may include a paper ballot to be counted by hand, a paper ballot to be counted on an electronic scanner, or a paper ballot used on any other voting system.
- (2) "Ballot item" means a single item on a ballot in which the voters are to choose between or among the candidates or proposals listed.
- (3) "Ballot style" means the version of a ballot within a jurisdiction that an individual voter is eligible to vote. For example, in a county that uses essentially the same official ballot, a group office such as county commissioner may be divided into districts so that different voters in the same county vote for commissioner in different districts. The different versions of the county's official ballot containing only those district ballot items one individual voter may vote are the county's different ballot styles.
- (4) "Election" means the event in which voters cast votes in ballot items concerning proposals or candidates for office in this State or the United States. The term includes primaries, general elections, referenda, and special elections.
- (5) "Official ballot" means a ballot that has been certified by the State Board of Elections and produced by or with the approval of the county board of ~~elections~~ elections and may include ballots indicating choices of an individual voter selected electronically and printed in the voting place. The term does not include a sample ballot or a specimen ballot.
- (5a) **(Effective January 1, 2018)** "Paper ballot" means an individual paper document that bears marks made by the voter by hand or through electronic means.
- (6) "Provisional official ballot" means an official ballot that is voted and then placed in an envelope that contains an affidavit signed by the voter certifying identity and eligibility to vote. Except for its envelope, a provisional official ballot shall not be marked to make it identifiable to the voter.
- (7) "Referendum" means the event in which voters cast votes for or against ballot questions other than the election of candidates to office.
- (8) "Voting booth" means the private space in which a voter is to mark an official ballot.
- (9) "Voting enclosure" means the room within the voting place that is used for voting.
- (10) "Voting place" means the building or area of the building that contains the voting enclosure.
- (11) "Voting system" means a system of casting and tabulating ballots. The term includes systems of paper ballots counted by hand as well as systems utilizing mechanical and electronic voting equipment."

SECTION 2.(b) G.S. 163-165.5 reads as rewritten:

"§ 163-165.5. Contents of official ballots.

(a) ~~Each~~ Except as provided in this section, each official ballot shall contain all the following elements:

- (1) The heading prescribed by the State Board of Elections. The heading shall include the term "Official Ballot".
- (2) The title of each office to be voted on and the number of ~~seats to be filled~~ votes allowed in each ballot item.



- (3) The names of the candidates as they appear on their notice of candidacy filed pursuant to G.S. 163-106 or G.S. 163-323, or on petition forms filed in accordance with G.S. 163-122. No title, appendage, or appellation indicating rank, status, or position shall be printed on the official ballot in connection with the candidate's name. Candidates, however, may use the title Mr., Mrs., Miss, or Ms. Nicknames shall be permitted on an official ballot if used in the notice of candidacy or qualifying petition, but the nickname shall appear according to standards adopted by the State Board of Elections. Those standards shall allow the presentation of legitimate nicknames in ways that do not mislead the voter or unduly advertise the candidacy. In the case of candidates for presidential elector, the official ballot shall not contain the names of the candidates for elector but instead shall contain the nominees for President and Vice President which the candidates for elector represent. The State Board of Elections shall establish a review procedure that local boards of elections shall follow to ensure that candidates' names appear on the official ballot in accordance with this subdivision.
- (4) Party designations in partisan ballot items.
- (5) A means by which the voter may cast write-in votes, as provided in G.S. 163-123. No space for write-ins is required unless a write-in candidate has qualified under G.S. 163-123 or unless the ballot item is exempt from G.S. 163-123.
- (6) Instructions to voters, unless the State Board of Elections allows instructions to be placed elsewhere than on the official ballot.
- (7) The printed title and facsimile signature of the chair of the county board of elections.

(b) Notwithstanding subsection (a) of this section, an official ballot created and printed by use of a voting system in the voting place shall be counted if all of the following apply:

- (1) Each of the following are printed on that official ballot:
- a. The date of the election.
 - b. The precinct name or a unique identification code associated with that ballot style.
 - c. The choices made by the voter for all ballot items in which the voter cast a vote.
- (2) The electronic display of the voting system seen by the voter contains all of the information required by subsection (a) of this section.
- (3) The voter is capable of reviewing the printed official ballot, and voiding that ballot, prior to casting that voter's ballot.
- (4) The voter's choices in and on the electronic display are removed prior to the next voter using that voting equipment."

SECTION 3.(a) Section 30.8 of S.L. 2013-381 reads as rewritten:

"**SECTION 30.8.** Any direct record electronic (DRE) voting systems currently certified by the State Board of Elections which do not use paper ballots shall be decertified and shall not be used in any election held on or after ~~January 1, 2018~~. September 1, 2019, for counties that use direct record electronic voting machines on election day as of January 1, 2015, and January 1, 2018, for all other counties. Decertification of a DRE voting system that does not use paper ballots may not be appealed to the Superior Court of Wake County pursuant to G.S. 163-165.7(b)."

SECTION 3.(b) Section 30.9 of S.L. 2013-381 reads as rewritten:

"**SECTION 30.9.** This Part becomes effective ~~January 1, 2018~~. September 1, 2019, for counties that use direct record electronic voting machines on election day as of January 1, 2015. This Part becomes effective for all other counties January 1, 2018."

.



1
2 **SECTION 4.** G.S. 18B-600 is amended by adding a new subsection to read:

3 "(c1) Certain City Malt Beverage and Unfortified Wine Elections. – A city may hold a
4 malt beverage or unfortified wine election only if all of the following criteria are met:

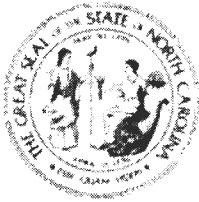
5 (1) The county in which more than fifty percent (50%) of the area of the primary
6 corporate limits of the city is located has already held such an election and
7 the vote in the last county election was against the sale of that kind of
8 alcoholic beverage.

9 (2) The city has a population of 200 or more.

10 (3) The county in which more than fifty percent (50%) of the area of the primary
11 corporate limits of the city is located also contains three or more other cities
12 that have previously voted to allow malt beverage and unfortified wine
13 sales."

14 **SECTION 5.** This act is effective when it becomes law.





HOUSE BILL 836: Election Reform

2015-2016 General Assembly

Committee: Rules and Operations of the Senate
Introduced by: Reps. Robinson, Bishop, Fraley
Analysis of: PCS to Second Edition
H836-CSTH

Date: June 10, 2015
Prepared by: R. Erika Churchill
and Kelly Q. Tornow,
Staff Attorneys

SUMMARY: *The proposed committee substitute for House Bill 836 would: (1) authorize electronic submission of absentee ballot lists by county boards of election; (2) authorize the use of new technology for paper ballots; (3) extend the time frame to implement the requirement for paper ballots from January 1, 2018, to September 1, 2019, for counties that currently use direct record electronic (DRE) voting machines; and (4) authorize certain municipalities to conduct malt beverage and unfortified wine elections.*

CURRENT LAW & BILL ANALYSIS:

Section 1. Each county board of elections, by 10:00 a.m. on Election Day, must submit, by regular US Postal mail, one copy of the list of executed absentee ballots, either as a countywide list or a separate list for each precinct, to the State Board of Elections. The PCS would authorize the lists to be submitted electronically in a manner approved by the State Board of Elections.

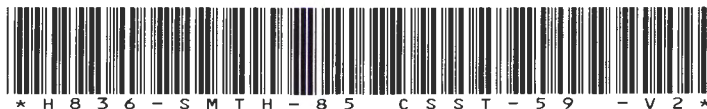
Section 2. North Carolina currently uses two types of electronic voting systems, optical scan machines and direct record electronic machines. Optical scan machines tabulate paper ballots that have been hand-marked by the voter. Direct record electronic (DRE) touchscreen voting machines allow voters to mark and submit their votes electronically and do not produce paper ballots. Effective January 1, 2018, S.L. 2013-381, requires that all voting systems must generate an individual paper ballot marked by the voter. (See Section 3 for changes to this provision.) New technology in voting systems would allow for a touchscreen selection of choices by a voter shown all the options for that race, with a printed ballot of only that voter's choices. The PCS would amend the current statutes governing contents of official ballots to allow for the use of the new technology, if those voting systems are certified by the State Board of Elections for purchase by the counties to be used in North Carolina elections.

Section 3. Effective January 1, 2018, S.L. 2013-381, requires that all voting systems must generate an individual paper ballot marked by the voter. The PCS would amend that session law to extend the effective date to September 1, 2019, for counties that use direct record electronic voting machines on election day as of January 1, 2015. All other counties would still be required to generate individual paper ballots marked by the voter by the original effective date of January 1, 2018.

Section 4. G.S. 18B-600(c) currently authorizes a city to hold a malt beverage or unfortified wine election only if the following criteria are met:

- The county in which the city is located has already held such an election and the vote in the last county election was against the sale of that kind of alcoholic beverage.
- The city either has a population of 500 or more OR operates an ABC store.

O. Walker Reagan
Director



Research Division
(919) 733-2578



House Bill 836

Page 2

The PCS would add an alternative procedure so that a city may hold a malt beverage or unfortified wine election only if the following criteria are met:

- The county in which the city is located has already held such an election and the vote in the last county election was against the sale of that kind of alcoholic beverage.
- The city has a population of 200 or more.
- The county in which the city is located also contains three or more other cities that have previously voted to allow malt beverage and unfortified wine sales.

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



VISITOR REGISTRATION SHEET

Senate Committee on Rules

(Committee Name)

6/10/15

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY</u>
Skye David	KLG
Johanna Reese	NCAAC
Clayton T. Dellinger	NDA & CS
Lyndi Perry	NDA & CP
Joy Wicks	NDA & CS
Henry Jones	Jordan Price
1/11/11	the 11
Isabel Villa-Giron	WEAR
Cady Thomas	Focus Carolina
Austin Pruitt	Perkinson Law
Starnes	Treasurer
Jonathan Hill	CTNC
Maaha Jenkins	DCF
Bruce M. Schmidt	NCSA
Annaliese Dalton	bc
Evan Miller	VMRS
Monteager	VMRS

Senate Committee on Rules

EX-107

VISITOR REGISTRATION SHEET

Senate Committee on Rules

(Committee Name)

6/10/15

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY</u>
Leah Buens	Gov's office
Kasey Ginsberg	Gov's office
Chris Andrews	Print lect
ANDY WALSH	SA
Weldon Price	Adrian Price
Andy Chase	KMA
Joe	MWC
Elizabeth Biser	Brooks Pierce
Army Fullbright	K-L Bates
Erica Nelson	NCHA
Mia Guglielmi	NMHC
Phil Carter	WASTE INDUSTRIES
Becki Gray	Locke Foundation
Tristan Mewald	WM
Sarah McQuillan	SSG INC
Pat Hamme	RLA
Courtney Barker	R. Cladd Assoc

Joint Committee on Rules

2010-11

VISITOR REGISTRATION SHEET

(Committee Name)

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY</u>
<i>[Signature]</i>	MT & S
David Crawford	AIA NC
Perry Muller	School of Law
Susan Flannery	NCDTSEA
TJ Bugbee	NP
Will Morgan	TWC



VISITOR REGISTRATION SHEET

(Committee Name)

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY</u>
Erin Wynia	NCLM
Allen Hardison	CRSOMA
Doug Lassiter	NCSTA
Paul Shum	NCFB
J GRAYEN. SHERILL	NCFB
JAKE PARKER	NCFB
Ken Melton	K.M.A.
Peter Daniel	CCS



Senate Pages Attending

COMMITTEE: Rules ROOM: 1027 LB

DATE: 6-10 TIME: 9:30 am

PLEASE PRINT LEGIBLY!!!!!!!!!!!!!!....or else!

	Page Name	Hometown	Sponsoring Senator
①.	Brice Mayeux	Charlotte	Rocke [#] Newton
②.	Campbell Fowler	Raleigh	Apodaca
③.	Fallon Stegall	Monroe	Tucker
4.	Michael Page	Burlington	Gunn
5.			
6.			
7.			
8.			
9.			
10.			

Do not add names below the grid.

Pages: Present this form to either the Committee Clerk at the meeting or to the Sgt-at-Arms.

MINUTES

Rules and Operations of the Senate

September 16, 2015

The Rules and Operations of the Senate committee met on September 16, 2015 at 10:00 a.m. The meeting was held in room 1027/1028 of the Legislative Building. Sixteen members of the committee were present. Senator Tom Apodaca presided.

Senator Apodaca introduced the Pages and the Sergeant at Arms.

Senator Apodaca brought forth the items on the agenda:

SB 215: Abolish Brunswick County Coroner- Senator Rabon presented the bill. Senator Brock moved for a favorable report. Motion carried.

HB875: Restrict Municipal Eminent Domain- Senator Soucek presented the bill. Senator Brown moved for a favorable report. Motion carried.

HB540: Billy Graham/ National Statuary Hall- Senator Soucek presented the bill. Senator Apodaca opened up the floor for questions. Senator Barefoot moved for a favorable report. Motion carried.

HB712: Pilot Project/ Used Needle Disposal- Representative Faircloth explained the bill. Sen. Apodaca opened up the floor for questions. Senator Ford moved for a favorable report. Motion carried.

HB 188: Trustee Appointments/Isothermal Comm. College- Representative Hager explained the bill. Senator Hise sent forth an amendment. Senator Hise explained the amendment. Amendment passed. Senator Brown moved for a favorable report to the bill as amended. Motion carried.

HB 709: NCNG Tuition Assistance Benefit Amendment- Senator Soucek explained the bill. Senator Tucker moved for a favorable report. Motion carried.

HB 527: Municipal Elec'n/Even-Numbered Yrs/Stanly Co. - Senator Brown moved to bring the PCS before the committee. Motion carried. Senators McGinnis, Alexander and Cook explained the PCS. Senator Wade sent forth an amendment. Amendment passed. Senator Apodaca opened up the floor for questions. Phillip Isley with the City of Raleigh helped further explain the bill. Senator Barefoot moved for a favorable report to the PCS, as amended. Motion carried.



HB 112: Stanly Co Bd of Ed Election Method- Representative Burr explained the bill. Senator Brock moved for a favorable report. Motion carried.

HB 20: Reagan's Rule/Enforce Pharm. Ben. Mgt.- Senator Brown moved to bring the PCS before the committee. Motion carried. Representative Graham, Senators Tillman, Krawiec, Cook and Apodaca explained the different sections of the PCS. Sen. Apodaca opened up the floor for questions between each section. Senator Wade sent forth an amendment. Amendment passed. The Mayor of Belhaven, NC, Adam O'Neil, and the Commissioner of Beaufort County, further explained section 4 of the bill. Senator Brown moved for a favorable report to the PCS as amended, unfavorable report to the original bill. Motion carried.

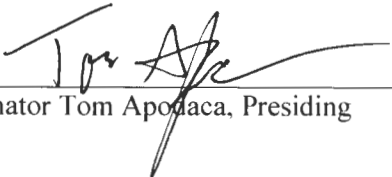
HB 503: Allow Moore Co. Commissioners to Redistrict.- Senator Brown moved to bring the PCS before the committee for discussion. Motion carried. Senator Tillman explained the bill. Senator Newton moved for a favorable report to the PCS, unfavorable to the original bill. Motion carried.

HB 361: Principle-Based Reserving- Senator Brown moved to bring the PCS before the committee for discussion. Motion carried. Senator Apodaca explained the bill. Ben Popkin with the NC Department of Insurance further explained the PCS. Senator Newton moved for a favorable report to the PCS, unfavorable to the original bill. Motion carried.

HB 173: Omnibus Criminal Law Bill- Senator Brock moved to bring the PCS before the committee for discussion. Motion carried. Representative Stam explained the PCS. Senator Apodaca opened up the floor for questions. Senator Wade sent forth an amendment and explained. Amendment passed. Senator Apodaca did not vote on this bill. Senator Brown moved for a favorable report to the PCS, as amended, unfavorable to the original bill. Motion carried.

HB 482: Employee Misclassification Reform.- Senator Brown moved to bring the PCS before the committee. Motion carried. Senator Newton explained the PCS. Brad Krehely, Research division, further explained the PCS. Senator Barefoot moved for a favorable report to the PCS, unfavorable to the original bill. Motion carried.

The meeting adjourned at 12:25 p.m.



Senator Tom Apodaca, Presiding



Laura Kilian, Committee Assistant



Principal Clerk
Reading Clerk

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The Senate Committee on Rules and Operations of the Senate will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	September 16, 2015	10:00 AM	1027/1128 LB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 215	Abolish Brunswick County Coroner.	Senator Rabon
HB 875	Restrict Municipal Eminent Domain.	Representative Jordan
		Representative McGrady
		Representative Hunter
HB 540	Billy Graham/National Statuary Hall.	Representative Jeter
		Representative Hager
		Representative Schaffer
		Representative Jones
HB 712	Pilot Project/Used Needle Disposal.	Representative Faircloth
		Representative Horn
		Representative Avila
		Representative Harrison
HB 188	Trustee Appointments/Isothermal Comm. Coll.	Representative Hager
HB 709	NCNG Tuition Assistance Benefit Amendment.	Representative G. Martin
HB 112	Stanly Co Bd of Ed Election Method.	Representative Burr
HB 173	Omnibus Criminal Law Bill.	Representative Stam
		Representative Faircloth
		Representative Glazier
		Representative R. Turner
HB 527	Municipal Elect'n/Even-Numbered Yrs/Stnly Co.	Representative Burr
HB 20	Reegan's Rule/Enforce Pharm. Ben. Mgt.	Representative C. Graham
HB 361	Principle-Based Reserving.	Representative Collins
		Representative Tine
		Representative Setzer



HB 482 Employee Misclassification Reform.

Representative Pendleton
Representative Blust
Representative Szoka
Representative Bishop
Representative Boles
Representative McNeill

HB 503 Allow Moore Co. Commissioners to
Redistrict.

Senator Tom Apodaca, Chair



Senate Committee on Rules and Operations of the Senate
Wednesday, September 16, 2015, 10:00 AM
1027/1128 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 215	Abolish Brunswick County Coroner.	Senator Rabon
HB 875	Restrict Municipal Eminent Domain.	Representative Jordan Representative McGrady Representative Hunter
HB 540	Billy Graham/National Statuary Hall.	Representative Jeter Representative Hager Representative Schaffer Representative Jones
HB 712	Pilot Project/Used Needle Disposal.	Representative Faircloth Representative Horn Representative Avila Representative Harrison Representative Hager
HB 188	Trustee Appointments/Isothermal Comm. Coll.	
HB 709	NCNG Tuition Assistance Benefit Amendment.	Representative G. Martin
HB 112	Stanly Co Bd of Ed Election Method.	Representative Burr
HB 173	Omnibus Criminal Law Bill.	Representative Stam Representative Faircloth Representative Glazier Representative R. Turner Representative Burr
HB 527	Municipal Elect'n/Even-Numbered Yrs/Stanly Co.	
HB 20	Reegan's Rule/Enforce Pharm. Ben. Mgt.	Representative C. Graham
HB 361	Principle-Based Reserving.	Representative Collins Representative Tine Representative Setzer
HB 482	Employee Misclassification Reform.	Representative Pendleton Representative Blust Representative Szoka Representative Bishop
HB 503	Allow Moore Co. Commissioners to	Representative Boles

Redistrict.

Representative McNeill

Presentations

Other Business

Adjournment

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT
Senator Apodaca, Co-Chair**

Wednesday, September 16, 2015

Senator Apodaca,
submits the following with recommendations as to passage:

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE
SUBSTITUTE BILL**

HB 503

Allow Moore Co. Commissioners to Redistrict.

Draft Number:	H503-PCS40512-TH-44
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Jerry Tillman will handle HB 503



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**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT
Senator Apodaca, Co-Chair**

Wednesday, September 16, 2015

Senator Apodaca,
submits the following with recommendations as to passage:

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE
SUBSTITUTE BILL**

HB 361	Principle-Based Reserving.
	Draft Number: H361-PCS10442-TU-24
	Sequential Referral: None
	Recommended Referral: None
	Long Title Amended: Yes

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO
SENATE COMMITTEE SUBSTITUTE BILL**

HB 188 (CS#1)	Trustee Appointments/Isothermal Comm. Coll.
	Draft Number: H188-PCS30422-TC-62
	Sequential Referral: None
	Recommended Referral: None
	Long Title Amended: No

HB 527 (CS#1)	Municipal Electn/Even-Numbered Yrs/Stnly Co.
	Draft Number: H527-PCS30421-TH-42
	Sequential Referral: None
	Recommended Referral: None
	Long Title Amended: Yes

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2, BUT FAVORABLE AS TO
SENATE COMMITTEE SUBSTITUTE BILL**

HB 482 (CS#2)	Employee Misclassification Reform.
	Draft Number: H482-PCS30423-RN-44
	Sequential Referral: None
	Recommended Referral: None
	Long Title Amended: No



**UNFAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 1, BUT
FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 2**

HB 20 (SCS#1)	Reegans Rule/Enforce Pharm. Ben. Mgt.
	Draft Number: H20-PCS40510-TY-6
	Sequential Referral: None
	Recommended Referral: None
	Long Title Amended: Yes
HB 173 (SCS#1)	Omnibus Criminal Law Bill.
	Draft Number: H173-PCS40509-TJ-58
	Sequential Referral: None
	Recommended Referral: None
	Long Title Amended: No

TOTAL REPORTED: 6

Senator Tom Apodaca will handle HB 361
Senator Ralph Hise will handle HB 188
Senator Thomas McInnis will handle HB 527
Senator E.S. Newton will handle HB 482
Senator Jerry Tillman will handle HB 20
Senator Warren Daniel will handle HB 173



★ C M R 5 8 1 - V - 3 ★

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT
Senator Apodaca, Co-Chair**

Wednesday, September 16, 2015

Senator Apodaca,
submits the following with recommendations as to passage:

FAVORABLE

HB 112	Stanly Co Bd of Ed Election Method. Draft Number: None Sequential Referral: None Recommended Referral: None Long Title Amended: No
HB 540	Billy Graham/National Statuary Hall. Draft Number: None Sequential Referral: None Recommended Referral: None Long Title Amended: No
HB 709	NCNG Tuition Assistance Benefit Amendment. Draft Number: None Sequential Referral: None Recommended Referral: None Long Title Amended: No
HB 712 (CS#1)	Pilot Project/Used Needle Disposal. Draft Number: None Sequential Referral: None Recommended Referral: None Long Title Amended: No
HB 875 (CS#1)	Restrict Municipal Eminent Domain. Draft Number: None Sequential Referral: None Recommended Referral: None Long Title Amended: No
SB 215	Abolish Brunswick County Coroner. Draft Number: None Sequential Referral: None Recommended Referral: None Long Title Amended: No



* C M R 5 8 0 - V - 1 *



TOTAL REPORTED: 6

Senator Thomas McInnis will handle HB 112
Senator Daniel Soucek will handle HB 540
Senator Daniel Soucek will handle HB 709
Senator Robert Rucho will handle HB 712
Senator Daniel Soucek will handle HB 875
Senator William Rabon will handle SB 215



* C M R 5 8 0 - V - 1 *

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S

1

SENATE BILL 215

Short Title: Abolish Brunswick County Coroner. (Local)

Sponsors: Senator Rabon (Primary Sponsor).

Referred to: Rules and Operations of the Senate.

March 11, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO ABOLISH THE OFFICE OF CORONER IN BRUNSWICK COUNTY.
3 The General Assembly of North Carolina enacts:
4 **SECTION 1.** The office of coroner in Brunswick County is abolished.
5 **SECTION 2.** Chapter 152 of the General Statutes is not applicable to Brunswick
6 County.
7 **SECTION 3.** This act is effective on the earlier of a vacancy in the office of
8 coroner in Brunswick County or the expiration of the current term of office in 2016.



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SENATE BILL 215: Abolish Brunswick County Coroner

2015-2016 General Assembly

Committee: Rules and Operations of the Senate
Introduced by: Sen. Rabon
Analysis of: First Edition

Date: September 16, 2015
Prepared by: Heather Fennell
Committee Counsel

SUMMARY: *House Bill 215 provides that the Office of Coroner in Brunswick County shall be abolished at the end of the current term or upon a vacancy of that office, whichever occurs first.*

CURRENT LAW: Chapter 152 of the General Statutes sets out the laws relating to coroners in North Carolina, including election and vacancies in office, oaths, bonds, powers and duties.

BILL ANALYSIS: House Bill 215 provides that the Office of Coroner in Brunswick County shall be abolished at the earlier of a vacancy in that office or end of the current term. The bill further provides that Chapter 152 of the General Statutes does not apply to Brunswick County.

EFFECTIVE DATE: This act becomes effective on the earlier of a vacancy in the office of the coroner in Brunswick County or the expiration of the current term of office in 2016.

BACKGROUND: The state-wide medical examiner system was put into place through Session Law 1965-639. Since the late 1960s, counties have abolished the Office of the Coroner. Most recently, Session Law 2010-48 abolished the Office of the Coroner in Rutherford County. There remains less than ten counties with an elected coroner.

Amy Jo Johnson, counsel to Senate Health, substantially contributed to this summary.





GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

2

HOUSE BILL 875
Committee Substitute Favorable 4/30/15

Short Title: Restrict Municipal Eminent Domain.

(Local)

Sponsors:

Referred to:

April 15, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE CONSENT OF THE COUNTY BOARD OF COMMISSIONERS IN
3 ASHE AND WATAUGA COUNTY FOR PROPERTY LOCATED IN THOSE
4 COUNTIES BEFORE ANY MUNICIPALITY, SPECIAL DISTRICT, OR OTHER UNIT
5 OF LOCAL GOVERNMENT ACQUIRES BY CONDEMNATION ANY REAL
6 PROPERTY LOCATED IN THE SAME COUNTY AND OUTSIDE THE
7 MUNICIPALITY, SPECIAL DISTRICT, OR OTHER UNIT OF LOCAL
8 GOVERNMENT.

9 The General Assembly of North Carolina enacts:

10 SECTION 1. Chapter 153A of the General Statutes is amended by adding a new
11 section to read:

12 "**§ 153A-14.5. Consent of board of commissioners necessary before land outside a unit of**
13 **local government, but within the county where that unit of local government is**
14 **located, may be condemned by that unit of local government.**

15 (a) Notwithstanding the provisions of Chapter 40A of the General Statutes or any other
16 general law or local act conferring the power of eminent domain, before final judgment may be
17 entered in any action of condemnation initiated by a city or town, special district, or other unit
18 of local government, whereby the condemnor seeks to acquire property located in the county
19 where the condemnor is located, but outside the corporate limits of the condemnor, the
20 condemnor shall furnish proof that the county board of commissioners of the county where the
21 land is located has consented by resolution, by majority vote of all members of the Board, to
22 the taking.

23 (b) In addition to the procedure specified in subsection (a) of this section, the following
24 shall indicate proof that the county board of commissioners of the county where the city or
25 town, special district, or other unit of local government is initiating an action of condemnation
26 has consented to the taking, as required by subsection (a) of this section, with no further
27 approval of the county board of county commissioners required:

28 (1) The real property subject to the condemnation action is located in a
29 designated urban growth area or zone of the condemning entity that was
30 approved by a prior action of the county board of commissioners.

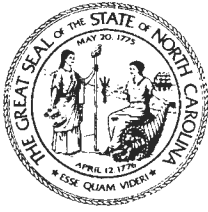
31 (2) The real property subject to the condemnation is located in an extraterritorial
32 jurisdiction area, as defined in G.S. 160A-360, of the condemning entity that
33 was approved by a prior action of the county board of county
34 commissioners.

35 (c) This section does not apply as to any condemnation of real property by a city or
36 town, special district, or other unit of local government where the property to be condemned is



1 within the corporate limits of that city or town, special district, or other unit of local
2 government."

3 **SECTION 2.** This act applies only to Ashe and Watauga counties. This act is
4 effective when it becomes law and applies to condemnations on or after that date.



HOUSE BILL 875: Restrict Municipal Eminent Domain

2015-2016 General Assembly

Committee: Rules and Operations of the Senate
Introduced by: Reps. Jordan, McGrady, Hunter
Analysis of: Second Edition

Date: September 16, 2015
Prepared by: Heather Fennell
Committee Counsel

SUMMARY: *House Bill 875 requires the approval of the County Board of Commissioners of Ashe and Watauga Counties before any other local government within those counties can condemn real property located outside the corporate limits of the local government seeking condemnation.*

CURRENT LAW: Under current law, a municipality or other unit of local government must obtain the approval of the county board of commissioners before it can condemn land *located outside of the county* where the municipality or other local government is wholly or primarily located, and located outside of that municipality or other local government. This law currently applies in 85 counties. G.S. 153A-15.

BILL ANALYSIS:

House Bill 875 adds a new **G.S. 153A-14.5**, to require that a municipality or other unit of local government must obtain the approval of the county board of commissioners before it can condemn land located *in the same county* where the municipality or other local government is wholly or primarily located, and also located outside of that municipality or other local government.

Consent of the county board means a majority vote of all the members of the board on a resolution. In addition, prior inclusion of the real property subject to condemnation in a county board-approved urban growth zone or county board-approved ETJ area shall constitute consent.

This bill only applies to Ashe and Watauga Counties.

EFFECTIVE DATE: This bill is effective when it becomes law and applies to condemnations on or after that date.

Giles Perry, counsel to House Local Government, substantially contributed to this summary.

O. Walker Reagan
Director



Research Division
(919) 733-2578



**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

H

1

HOUSE BILL 540

Short Title: Billy Graham/National Statuary Hall.

(Public)

Sponsors: Representatives Jeter, Hager, Schaffer, and Jones (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Rules, Calendar, and Operations of the House.

April 6, 2015

A BILL TO BE ENTITLED

AN ACT REQUESTING THE JOINT COMMITTEE ON THE LIBRARY OF CONGRESS
TO APPROVE THE REPLACEMENT OF THE STATUE OF CHARLES BRANTLEY
AYCOCK IN NATIONAL STATUARY HALL WITH A STATUE OF THE REVEREND
WILLIAM FRANKLIN "BILLY" GRAHAM, JR.

Whereas, in 1864, Congress established National Statuary Hall in the Old Hall of
the House of Representatives in the United States Capitol, and authorized each state to
contribute to the Hall two statues that represent important historical figures of each state; and

Whereas, North Carolina currently has statues on display in the National Statuary
Hall Collection of former governors Zebulon Vance and Charles Brantley Aycock given by the
State in 1916 and 1932, respectively; and

Whereas, in 2000, Congress enacted legislation authorizing states the ability to
request that the Joint Committee on the Library of Congress approve the replacement of a
statue the state had provided for display in Statuary Hall; and

Whereas, William Franklin "Billy" Graham, Jr., was born on November 7, 1918, to
William Franklin Graham and Morrow Coffey Graham, and was reared on a dairy farm in
Charlotte, North Carolina; and

Whereas, Billy Graham attended the Florida Bible Institute from 1937 to 1940,
graduating in 1940, and was ordained to the ministry in 1939; and

Whereas, Billy Graham served as pastor of The Village Church in Western Springs,
Illinois, from 1943 to 1945; as a member of Youth for Christ International, where he ministered
to young people and military personnel from 1945 to 1950; and as President of Northwestern
Schools, a liberal arts college, Bible school, and theological seminary, from 1947 to 1952; and

Whereas, after World War II, Reverend Graham preached throughout the United
States and Europe and attained international prominence as an evangelist through a series of
crusades that began in 1949; and

Whereas, since 1950, Reverend Graham has conducted his ministry through the
Billy Graham Evangelistic Association (BGEA), reaching multitudes of people by means of a
weekly radio program, "Hour of Decision"; a newspaper column, "My Answer"; televised
crusades; articles published in "Decision" magazine; and evangelistic films produced and
distributed by World Wide Pictures and now reaching millions through the BGEA Web site and
the Billy Graham Library in Charlotte; and



Whereas, over the years, Reverend Graham has preached to live audiences of nearly 215 million people in more than 185 countries and territories and has preached to an estimated 2.2 billion people through television and technology; and

Whereas, Reverend Graham has been a renowned humanitarian and philanthropist, providing financial assistance to victims of disasters, as well as collecting and distributing clothing to those in need all around the world over the years; and

Whereas, Reverend Graham has counseled 12 Presidents and has participated in nine presidential inaugurations; and

Whereas, Reverend Graham has also counseled world leaders and has participated in many historic occasions, and has been called upon as the "nation's pastor" during times of national crisis. He spoke at the National Cathedral service in Washington, D.C., three days after the 9/11 attack in 2001, as the nation and world watched and listened. Five presidents, including George W. Bush, Bill Clinton, George H.W. Bush, Jimmy Carter, and Gerald Ford, and their wives were in the audience; and

Whereas, in 2012, Reverend Graham was listed on the "The Ten Most Admired Men in the World List" for the 56th time. He was first selected in 1955. According to the latest list, Reverend Graham was tied as Number 3 with Mitt Romney, George W. Bush, and Pope Benedict XVI behind President Barack Obama and Nelson Mandela; and

Whereas, admired and beloved by both Christians and non-Christians, Reverend Graham continues to inspire the world with his good works; and

Whereas, there have been many great North Carolinians, but few have impacted the world more than Billy Graham; and

Whereas, it is appropriate to honor Reverend Graham's life and works by placing his likeness in the National Statuary Hall Collection for display in the United States Capitol; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The General Assembly requests that the Joint Committee on the Library of Congress approve the replacement of the statue of Charles Brantley Aycock in the National Statuary Hall Collection currently on display in the United States Capitol with a statue of the Reverend William Franklin "Billy" Graham, Jr.

SECTION 2. The General Assembly requests that the Honorable Pat McCrory, Governor of the State of North Carolina, extend to the Joint Committee on the Library of Congress his approval of the General Assembly's request to replace the statue of Charles Brantley Aycock in the National Statuary Hall Collection currently on display in the United States Capitol with a statue of the Reverend Franklin "Billy" Graham, Jr.

SECTION 3.(a) There is created the Statuary Hall Selection Committee (the "Committee").

SECTION 3.(b) Membership. – The Committee shall be composed of seven members, as follows:

(1) Four members appointed by the President Pro Tempore of the Senate, one of whom shall be a representative of the Billy Graham Evangelistic Association, or the Association's designee.

(2) Three members appointed by the Speaker of the House of Representatives.

SECTION 3.(c) Terms; Chairs; Vacancies; Quorum. – Members shall serve terms of four years. The Committee 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 appointees. The Committee shall meet upon the call of the cochairs. Vacancies shall be filled by the appointing authority. A quorum of the Committee shall be a majority of the members.

SECTION 3.(d) Duties. – The Committee shall do the following:

- 1 (1) Select a sculptor to create a statue of the Reverend Franklin "Billy" Graham,
2 Jr., to be placed in the National Statuary Hall Collection and review and
3 approve the plans for the statue.
- 4 (2) Identify a method of obtaining the necessary funds needed to pay for all of
5 the following:
 - 6 a. The sculptor for designing and carving or casting the statue.
 - 7 b. The design and fabrication of the pedestal.
 - 8 c. The transportation of the statue and pedestal to the United States
9 Capitol.
 - 10 d. The removal and transportation of the replaced statue.
 - 11 e. The temporary placement of the new statue in the Rotunda of the
12 Capitol for the unveiling ceremony.
 - 13 f. The unveiling ceremony.
 - 14 g. Any other expenses that the Committee determines are necessary to
15 incur.

16 **SECTION 3.(e)** Compensation; Administration. – Members of the Committee shall
17 receive subsistence and travel allowances at the rates set forth in G.S. 120-3.1, 138-5, or 138-6,
18 as appropriate. The Committee may contract for consultants or hire employees in accordance
19 with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services
20 Officer, shall assign professional staff to assist the Committee in its work. Upon the direction
21 of the Legislative Services Commission, the Directors of Legislative Assistants of the Senate
22 and of the House of Representatives shall assign clerical staff to the Committee. The expenses
23 for clerical employees shall be borne by the Committee.

24 **SECTION 3.(f)** Reports; Termination. – The Committee shall make an interim
25 report to the 2016 Regular Session of the 2015 General Assembly and an annual report
26 thereafter until the Committee has completed the duties set out in subsection (d) of this section,
27 at which time the Committee shall terminate.

28 **SECTION 4.** The Secretary of State shall transmit a certified copy of this act to the
29 members of the Joint Committee on the Library of Congress and North Carolina's
30 congressional delegation.

31 **SECTION 5.** This act is effective when it becomes law.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

2

HOUSE BILL 712
Committee Substitute Favorable 4/27/15

Short Title: Pilot Project/Used Needle Disposal.

(Public)

Sponsors:

Referred to:

April 15, 2015

A BILL TO BE ENTITLED
AN ACT TO DIRECT THE STATE BUREAU OF INVESTIGATION TO ESTABLISH AND
IMPLEMENT A USED NEEDLE AND HYPODERMIC SYRINGE DISPOSAL PILOT
PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Pilot Program. – By no later than December 1, 2015, the State Bureau of Investigation, in consultation and collaboration with the North Carolina Harm Reduction Coalition, shall establish and implement a used needle and hypodermic syringe disposal pilot program. The pilot program shall offer the free disposal of used needles and hypodermic syringes to reduce the spread of HIV, AIDS, viral hepatitis, and other bloodborne diseases through needle stick injuries resulting from physical contact with improperly discarded used needles and hypodermic syringes. The pilot program shall include all of the following:

- (1) Reasonable and adequate security of disposal sites and equipment.
- (2) An accounting of the approximate number of used needles and hypodermic syringes returned and disposed of.
- (3) Within each of the counties chosen pursuant to subsection (b) of this section, a general report of the availability of relevant educational materials; HIV and viral hepatitis counseling and testing; referral services to provide education regarding HIV, AIDS, and viral hepatitis transmission; and drug abuse prevention and treatment counseling and referral services.

SECTION 1.(b) Sites. – The State Bureau of Investigation shall select two counties in which to operate the pilot program initially but may select up to four counties total in which to operate the pilot program after successful demonstration of the pilot in at least two counties. The State Bureau of Investigation shall collaborate with the local health departments and local law enforcement agencies of the counties when implementing and operating the pilot program established under this section.

SECTION 1.(c) Limited Immunity. – Any person participating in the pilot program established under this section shall not be charged with or prosecuted for possession of drug paraphernalia for any used needle or hypodermic syringe returned and disposed of, or for residual amounts of a controlled substance contained in the used needle or hypodermic syringe returned and disposed of. The limited immunity under this subsection does not apply to the possession of needles or hypodermic syringes that are not a part of the pilot program established under this section.

SECTION 1.(d) Report. – No later than one year after implementing the pilot program required by this section, the State Bureau of Investigation shall report the results of the pilot program to the chairs of the Joint Legislative Oversight Committee on Health and Human



1 Services and the chairs of the Joint Legislative Oversight Committee on Justice and Public
2 Safety. If the State Bureau of Investigation deems the initial pilot program in two counties a
3 success, the report may include a recommendation to continue the pilot in those counties for an
4 additional year and may include a recommendation to add two additional counties to the pilot
5 program; this would allow the extension of the pilot program for an additional year, and at the
6 conclusion of that second year, the State Bureau of Investigation shall provide another report to
7 the Joint Legislative Oversight Committee on Health and Human Services and the Joint
8 Legislative Oversight Committee on Justice and Public Safety.

9 **SECTION 1.(e)** Expiration. – The pilot program required by this section shall
10 expire upon the submission of the report required by subsection (d) of this section.

11 **SECTION 2.** G.S. 90-113.22(c) reads as rewritten:

12 "(c) Prior to searching a person, a person's premises, or a person's vehicle, an officer
13 may ask the person whether the person is in possession of a hypodermic needle or other sharp
14 object that may cut or puncture the officer or whether such a hypodermic needle or other sharp
15 object is on the premises or in the vehicle to be searched. If there is a hypodermic needle or
16 other sharp object on the person, on the person's premises, or in the person's vehicle and the
17 person alerts the officer of that fact prior to the search, the person shall not be charged with or
18 prosecuted for possession of drug paraphernalia for the needle or sharp ~~object-object, or for~~
19 residual amounts of a controlled substance contained in the needle or sharp object. The
20 exemption under this subsection does not apply to any other drug paraphernalia that may be
21 present and found during the search. For purposes of this subsection, the term "officer" includes
22 "criminal justice officers" as defined in G.S. 17C-2(3) and a "justice officer" as defined in
23 G.S. 17E-2(3)."

24 **SECTION 3.** Section 2 of this act becomes effective December 1, 2015. The
25 remainder of this act is effective when it becomes law.



HOUSE BILL 712: Pilot Project/Used Needle Disposal

2015-2016 General Assembly

Committee: Rules and Operations of the Senate
Introduced by: Reps. Faircloth, Horn, Avila, Harrison
Analysis of: Second Edition

Date: September 16, 2015
Prepared by: Theresa Matula
Legislative Analyst

SUMMARY: *House Bill 712 requires the State Bureau of Investigation (SBI), in consultation and collaboration with the NC Harm Reduction Coalition, to establish and implement a used needle and hypodermic syringe disposal pilot program by December 1, 2015. The bill also amends the law on charging a person for residual amounts of a controlled substance contained in a needle or sharp object if the person advised the officer of the needle or sharp object prior to the search. Initially the pilot will operate in two counties, but the SBI may select up to four counties if the pilot is successful. The SBI is required to report to the chairs of the Joint Legislative Oversight Committees on Health and Human Services and Justice and Public Safety regarding the status of the pilot.*

BILL ANALYSIS:

Section 1 of House Bill 712 requires the State Bureau of Investigation (SBI), in consultation and collaboration with the North Carolina Harm Reduction Coalition, to establish and implement a used needle and hypodermic syringe disposal pilot program by December 1, 2015.

Pilot Program: The pilot program must offer the free disposal of used needles and hypodermic syringes and include all of the following:

- (1) Reasonable and adequate security of disposal sites and equipment.
- (2) An accounting of the approximate number of used needles and hypodermic syringes returned and disposed.
- (3) Within each of the counties chosen - a general report of the availability of relevant educational materials; HIV and viral hepatitis counseling and testing; referral services to provide education regarding HIV, AIDS, and viral hepatitis transmission; and drug abuse prevention and treatment counseling and referral services.

Sites: The SBI must select two counties in which to operate the pilot initially, but may select up to four counties total after successful demonstration of the pilot. The SBI must collaborate with the local health departments and local law enforcement agencies of the counties when implementing and operating the pilot program.

Limited Immunity: The bill provides that any person participating in the pilot program must not be charged with or prosecuted for possession of drug paraphernalia for any used needle or hypodermic syringe returned and disposed of, or for residual amounts of a controlled substance contained in the used needle or hypodermic syringe returned and disposed of. The limited immunity does not apply to the possession of needles or hypodermic syringes that are not a part of the pilot program.

Report: No later than one year after implementing the pilot program, the SBI is required to report the results of the pilot program to the chairs of the Joint Legislative Oversight Committee on Health and Human Services and the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety. If the SBI determines the initial pilot program in two counties is a success, the initial report may

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House Bill 712

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include a recommendation to add two additional counties to the pilot program which would allow the extension of the pilot for an additional year and a subsequent report to the two Committees.

Expiration: The pilot program will expire upon the submission of the report.

Section 2 of the bill amends G.S. 90-113.22(c) to prohibit a person from being charged with or prosecuted for possession of residual amounts of a controlled substance contained in a needle or sharp object if the person alerts the officer to the needle or other sharp object prior to the search.

EFFECTIVE DATE: Section 2 of the bill becomes effective December 1, 2015, the remainder of the bill is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

2

HOUSE BILL 188
Committee Substitute Favorable 3/31/15

Short Title: Trustee Appointments/Isothermal Comm. Coll.

(Local)

Sponsors:

Referred to:

March 11, 2015

A BILL TO BE ENTITLED
AN ACT TO CHANGE THE MANNER OF SELECTION OF CERTAIN MEMBERS OF
THE BOARD OF TRUSTEES OF ISOTHERMAL COMMUNITY COLLEGE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-12(a) reads as rewritten:

"(a) Each community college established or operated pursuant to this Chapter shall be governed by a board of trustees consisting of ~~13 members, or of additional members if selected according to the special procedure prescribed by the third paragraph of this subsection, 15~~ members, who shall be selected by the following agencies. No member of the General Assembly may be appointed to a local board of trustees for a community college.

~~Group One — four trustees, elected by the board of education of the public school administrative unit located in the administrative area of the institution. If there are two or more public school administrative units, whether city or county units, or both, located within the administrative area, the trustees shall be elected jointly by all of the boards of education of those units, each board having one vote in the election of each trustee, except as provided in G.S. 115D-59. No board of education shall elect a member of the board of education or any person employed by the board of education to serve as a trustee, however, any such person currently serving on a board of trustees shall be permitted to fulfill the unexpired portion of the trustee's current term.~~

Group Two — ~~four~~ 10 trustees, elected as follows:

(1) Seven members elected by the Rutherford County Commissioners as follows:

- a. The appointment of two trustees for terms commencing July 1, 2015, and quadrennially thereafter.
- b. The appointment of one trustee for a term commencing July 1, 2016, and quadrennially thereafter.
- c. The appointment of two trustees for terms commencing July 1, 2017, and quadrennially thereafter.
- d. The appointment of two trustees for a term commencing July 1, 2018, and quadrennially thereafter.

The Rutherford County Commissioners shall ensure that among the members elected, at least one trustee has experience in a small business, one trustee has private sector experience in accounting or budgeting, and one trustee has private sector experience in building maintenance or equipment.

(2) Three members elected by the Polk County Commissioners, as follows:



- 1 a. The appointment of one trustee for a term commencing July 1, 2015,
2 and quadrennially thereafter.
3 b. The appointment of one trustee for a term commencing July 1, 2016,
4 and quadrennially thereafter.
5 c. The appointment of one trustee for a term commencing July 1, 2017,
6 and quadrennially thereafter.

7 The Polk County Commissioners shall ensure that among the members
8 elected, at least one trustee has experience in a small business.

9 ~~by the board of commissioners of the county in which the institution is located. Provided,~~
10 ~~however, if the administrative area of the institution is composed of two or more counties, the~~
11 ~~trustees shall be elected jointly by the boards of commissioners of all those counties, each~~
12 ~~board having one vote in the election of each trustee. Provided, also, the county commissioners~~
13 ~~of the county in which the community college has established a satellite campus may elect an~~
14 ~~additional two members if the board of trustees of the community college agrees. No more than~~
15 ~~one trustee from Group Two may be a member of a board of county commissioners. Should the~~
16 ~~boards of education or the boards of commissioners involved be unable to agree on one or more~~
17 ~~trustees the senior resident superior court judge in the superior court district or set of districts as~~
18 ~~defined in G.S. 7A-41.1 where the institution is located shall fill the position or positions by~~
19 ~~appointment.~~

20 Group Three – four trustees, appointed by the Governor.

21 Group Four – the president of the student government or the chairman of the executive
22 board of the student body of each community college established pursuant to this Chapter shall
23 be an ex officio nonvoting member of the board of trustees of each said institution."

24 **SECTION 2.** This act applies only to Isothermal Community College.

25 **SECTION 3.** This act is effective when it becomes law and applies to
26 appointments to terms beginning on or after July 1, 2015. The Rutherford County
27 Commissioners and Polk County Commissioners shall ensure that members with the required
28 experiential backgrounds, as required by G.S. 115D-12(a), as enacted in this act, are elected to
29 the board of trustees of Isothermal Community College no later than July 1, 2018.



HOUSE BILL 188: Trustee Appointments/Isothermal Comm. Coll

2015-2016 General Assembly

Committee: Rules and Operations of the Senate
Introduced by: Rep. Hager
Analysis of: Second Edition

Date: September 16, 2015
Prepared by: Kara McCraw
Committee Counsel

SUMMARY: *HB 188 would eliminate the 4 appointments of the local boards of education to the board of trustees of Isothermal Community College and require the Rutherford and Polk County Commissioners to make those appointments, subject to certain requirements.*

CURRENT LAW: G.S. 115D-12 establishes the local boards of trustees for community colleges. There are thirteen members on each board, including the president of the student body as an ex officio member. Of the remaining twelve members, they are appointed in groups of four respectively by the following entities:

- 1) The board(s) of education of the local school administrative unit(s) located in the administrative area of the institution.
- 2) The board(s) of commissioners of the county or counties in the administrative area of the institution.
- 3) The Governor.

The statute places the following requirements and restrictions on membership:

- 1) No member of the General Assembly may be appointed to a local board of trustees for a community college.
- 2) All trustees must be residents of the administrative area of the institution for which they are selected or of counties contiguous thereto with the exception of members appointed by the Governor.
- 3) No person who has been employed full time by the community college within the prior 5 years and no spouse or child of a person currently employed full time by the community college shall serve on the board of trustees of that college.
- 4) No board of education may elect a member of the board of education or any person employed by the board of education to serve as a trustee.
- 5) No more than one trustee from appointed by the board of county commissioners may be a member of a board of county commissioners.

BILL ANALYSIS: House Bill 188 would create a local modification to the appointment procedures for the board of trustees of Isothermal Community College. Three of the trustees previously appointed by the local board of education would instead be appointed by the Rutherford County Commissioners, and one would be appointed by the Polk County Commissioners.

Combined with the members currently appointed, the Rutherford County Commissioners (Rutherford) would appoint seven members. Beginning in the following years, and every 4 years thereafter, Rutherford would appoint: 2 members in 2015, 1 member in 2016, 2 members in 2017, and 2 members in 2018. Rutherford must ensure that, among those appointments, at least one member has experience in small business, one member has experiences in private sector accounting or budgeting, and one member has experience in building maintenance or equipment.

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Combined with the members currently appointed, the Polk County Commissioners (Polk) would appoint three members. Beginning in the following years, and every 4 years thereafter, Polk would appoint: 1 member in 2015, 1 member in 2016, and 1 member in 2017. Polk must ensure that, among those appointments, at least one member has experience in small business.

EFFECTIVE DATE: HB 188 would become effective when it becomes law, and apply to appointments to terms beginning on or after July 1, 2015. The requirement to appoint members with certain background experiences must be met no later than July 1, 2018.

BACKGROUND: The administrative service area for Isothermal Community College is Polk and Rutherford Counties.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 188

H188-ATC-97 [v.2]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 1

Amends Title [NO]
Second Edition

Date _____, 2015

Senator _____

- 1 moves to amend the bill on page 1, line 23, by changing the year "2015," to "2016";
2
3 and on page 1, line 25, by changing the year "2016," to "2017";
4
5 and on page 1, line 27, by changing the year "2017," to "2018";
6
7 and on page 1, line 30, by changing the year "2018," to "2019";
8
9 and on page 2, line 1, by changing the year "2015," to "2016";
10
11 and on page 2, line 3, by changing the year "2016," to "2017";
12
13 and on page 2, line 5, by changing the year "2017," to "2018";
14
15 and on page 2, line 26, by changing the year "2015," to "2016";
16
17 and on page 2, line 29, by changing the year "2018," to "2019".

SIGNED

Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

1

HOUSE BILL 709

Short Title: NCNG Tuition Assistance Benefit Amendment. (Public)

Sponsors: Representative G. Martin (Primary Sponsor).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Homeland Security, Military, and Veterans Affairs, if favorable, Education - Universities.

April 15, 2015

- 1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW MEMBERS OF THE NORTH CAROLINA NATIONAL GUARD
3 WHO ARE ENROLLED IN A PROGRAM GRANTING A GRADUATE CERTIFICATE
4 TO BE ELIGIBLE FOR THE NORTH CAROLINA NATIONAL GUARD TUITION
5 ASSISTANCE BENEFIT.
6 The General Assembly of North Carolina enacts:
7 **SECTION 1.** G.S. 116-209.54(b) reads as rewritten:
8 "**§ 116-209.54. Eligibility.**
9 ...
10 (b) This tuition assistance benefit shall be applicable to students in the following
11 categories:
12 (1) Students seeking to achieve completion of their secondary school education
13 at a community college or technical institute.
14 (2) Students seeking trade or vocational training or education.
15 (3) Students seeking to achieve a two-year associate degree.
16 (4) Students seeking to achieve a four-year baccalaureate degree.
17 (5) Students seeking to achieve a graduate degree.
18 (6) Students enrolled in a program granting a graduate certificate.
19 **SECTION 2.** This act is effective when it becomes law.







HOUSE BILL 709: NCNG Tuition Assistance Benefit Amendment

2015-2016 General Assembly

Committee: Rules and Operations of the Senate
Introduced by: Rep. G. Martin
Analysis of: First Edition

Date: September 15, 2015
Prepared by: Bill Patterson
Committee Counsel

SUMMARY: *House Bill 709 would extend eligibility for North Carolina National Guard tuition assistance to eligible North Carolina National Guard members enrolled in a program granting graduate certificates.*

CURRENT LAW: Tuition assistance is available under the North Carolina National Guard Tuition Assistance Act of 1975 to active members of the North Carolina National Guard who are enrolled or will enroll in any of the following: (i) an in-State business or trade school licensed by the State Board of Education; (ii) an in-State private educational institution which does not operate for profit; or (iii) a State educational institution, and who are seeking:

- completion of their secondary school education at a community college or technical institute;
- trade or vocational training or education;
- a two-year associate degree;
- a four-year baccalaureate degree; or
- a graduate degree.

G.S. 116-209.54(b).

To be eligible to receive this tuition assistance, the person must have a minimum obligation of two years remaining as a member of the North Carolina National Guard from the end of the academic period for which tuition assistance is provided, or must commit himself or herself to extended membership for at least two years from the end of that academic period. G.S. 116-209.54(a).

BILL ANALYSIS: House Bill 709 would extend eligibility for tuition assistance to North Carolina National Guard members who are enrolled in a program granting a graduate certificate.

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

BACKGROUND: The North Carolina National Guard Assistance Program is administered by the State Education Assistance Authority. Program funds are dispersed on a first-come, first-served basis until the annual funding is depleted.

* Denise Adams, Legislative Analyst, substantially contributed to this summary.

O. Walker Reagan
Director



Research Division
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* H 7 0 9 - S M T G - 1 4 0 E 1 - V 1 *



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

2

HOUSE BILL 527
Committee Substitute Favorable 4/23/15

Short Title: Municipal Elect'n/Even-Numbered Yrs/Stnly Co.

(Local)

Sponsors:

Referred to:

April 2, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE THAT REGULAR MUNICIPAL ELECTIONS IN THE
3 MUNICIPALITIES OF STANLY COUNTY SHALL BE HELD IN EVEN-NUMBERED
4 YEARS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.(a)** Section 3.1 of the Charter of the City of Albemarle, being Chapter
7 259 of the Session Laws of 1979, as amended by Ordinance 95-18 adopted by the City Council,
8 reads as rewritten:

9 "Section 3.1. Regular Municipal Elections; Conduct and Method of Election. Regular
10 municipal elections for Mayor shall be held in the City in 1979-2015, and every two years
11 thereafter and thereafter, except that the Mayor elected in 2015 shall serve a term of three years.
12 The City Council shall consist of seven members, each residing in and elected from districts,
13 who shall be elected for a term of four years in the manner provided by Section 3.2 of this
14 Charter. Elections shall be conducted in accordance with the uniform municipal election laws
15 of North Carolina. The Mayor and members of the City Council shall be elected according to
16 the partisan primary and elections method for statewide office as provided in
17 G.S. 163-291, G.S. 163-1."

18 **SECTION 1.(b)** Section 3.2 of the Charter of the City of Albemarle, being Chapter
19 259 of the Session Laws of 1979, as amended by Chapter 881 of the 1987 Session Laws and
20 Ordinance 95-18 adopted by the City Council, reads as rewritten:

21 "Section 3.2. Election of Mayor and Council Members. At the regular municipal election in
22 1991-2015 and every two years thereafter, there shall be elected a Mayor ~~Mayor~~, except as
23 provided in Section 3.1 of this Charter.

24 ~~At the regular municipal election to be held in 1995, members of the City Council shall be~~
25 ~~nominated and elected as follows. The member of Council from District 1 and the member of~~
26 ~~Council from District 3 shall be nominated and elected by and from the qualified voters of the~~
27 ~~electoral district to serve for a four year term. The member of Council from District 2 and the~~
28 ~~member of Council from District 4 shall be nominated and elected by and from the qualified~~
29 ~~voters of the electoral district to serve for a two year term. Three members of Council shall be~~
30 ~~nominated and elected at large by and from the qualified voters of the City. The two at large~~
31 ~~members of Council receiving the highest number of votes in the regular municipal election~~
32 ~~shall be elected to serve for a four year term. The at large member of Council receiving the next~~
33 ~~highest number of votes in the regular municipal election shall be elected to serve for a two~~
34 ~~year term.~~

35 At the regular municipal election held in 1997, and every four years thereafter, the member
36 of Council from District 2, the member of Council from District 4, and the member of Council



1 elected at large in the 1995 regular municipal election to serve a two year term shall be
2 nominated and elected to serve a four year term.

3 At the regular municipal election held in 1999 and every four years thereafter, the member
4 of Council from District 1, the member of Council from District 3, and the two members of
5 Council elected at large in the 1995 regular municipal election to serve a four year term shall be
6 nominated and elected to serve for a four year term.

7 In 2015, the four members elected shall serve terms of five years, and their successors shall
8 serve terms of four years. The three members whose terms expire in 2017 shall continue to
9 serve until 2018, and their successors shall serve terms of four years."

10 **SECTION 2.** Chapter III of the Charter of the Town of Badin, being Chapter 894
11 of the Session Laws of 1989, reads as rewritten:

12 "CHAPTER III.
13 "GOVERNING BODY.

14 ...
15 "Sec. 3.3. Term of office of Council members. ~~The initial members of the Council shall be~~
16 ~~elected in 1990 at the same time as the general election for county officers, and the procedure~~
17 ~~shall be as generally provided for election of municipal officers in an odd-numbered year,~~
18 ~~except that the filing period shall open as soon as the results of the incorporation referendum~~
19 ~~are certified, and shall end at 12:00 noon on the third Friday after that date. The initial district~~
20 ~~members are elected for three year terms, their successors shall be elected in 1993 and~~
21 ~~quadrennially thereafter for four year terms. In 1990, the at large candidate receiving the~~
22 ~~highest number of votes is elected to a three year term, and the two at large candidates~~
23 ~~receiving the next highest numbers of votes are elected to one year terms. In 1991 and~~
24 ~~quadrennially thereafter, two at large members are elected for four year terms. In 1993 and~~
25 ~~quadrennially thereafter, one at large member is elected for a four year term. Initial town~~
26 ~~officers shall take office on the Monday following the canvassing of the returns of their~~
27 ~~election, at a time and place designated by any three of them.~~In 2015, the two at-large members
28 shall serve for terms of five years, and their successors shall serve terms of four years. Each of
29 the resident district members and the at-large members whose terms expire in 2017 shall
30 continue to serve until 2018, and their successors shall be elected to serve terms of four years.
31 Regular municipal elections shall be held in each even-numbered year thereafter in accordance
32 with Chapter IV of this Charter.

33 "Sec. 3.4. Selection of Mayor: term of office. The members of the Town Council shall,
34 from among their members, elect the Mayor at their organizational meeting to serve a two-year
35 term, except that the Mayor elected in ~~1990-2015~~ shall serve a ~~one-year~~three-year term."

36 **SECTION 3.(a)** Article III of the Charter of the Town of Locust, being Chapter
37 246 of the Session Laws of 1973, as amended by Chapter 41 of the 1977 Session Laws, reads
38 as rewritten:

39 "...
40 "Sec. 3.2. Mayor and Mayor Pro Tempore. The Mayor shall be a resident and qualified
41 voter of the City of Locust and shall be elected by the qualified voters of the City of Locust,
42 and he shall hold office for two (2) ~~years~~years, except that the Mayor elected in 2015 shall
43 serve a term of three years, but the Mayor's successors shall serve terms of two years. In the
44 case of a vacancy in the office of Mayor, the City Council shall by appointment fill the vacancy
45 for the unexpired term. The Mayor shall be the official head of the City government and shall
46 preside at all meetings of the City Council. When there is an equal division upon any question,
47 or in the appointment of officers, by the Council, the Mayor shall determine the matter by his
48 vote, and shall vote in no other case. The Mayor shall exercise such powers and perform such
49 duties as are or may be conferred upon him by the general laws of North Carolina, by this
50 Charter, and by the ordinances of the City. The City Council shall choose one of its number to
51 act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence

or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Council.

"Sec. 3.3. Composition of City Council. Beginning with the election to be held on November 8, ~~1977~~, 3, 2015, the City Council shall consist of seven (7) members to be elected by and from the qualified voters of the city voting at large in the manner provided by Article IV.

...."

SECTION 3.(b) Section 4.1 of the Charter of the Town of Locust, being Chapter 246 of the Session Laws of 1973, as amended by Chapter 41 of the 1977 Session Laws, reads as rewritten:

"Sec. 4.1. Regular Municipal Elections. Regular municipal elections shall be held on the Tuesday after the first Monday in November of each ~~odd-numbered year which began in 1973~~, even-numbered year except as provided in this section. In the regular election in ~~1977~~ 2015, ~~there shall be elected three (3) councilmen. The three (3) candidates receiving the highest number of votes shall be elected for terms of four (4) years. In the regular election of 1979, there shall be elected four (4) councilmen, and the four (4) candidates receiving the highest number of votes shall be elected for four (4) years.~~ four members shall be elected for terms of five years, and the three members whose terms expire in 2017 shall continue to serve until 2018. Thereafter as the terms of members expire, their successors shall be elected for terms of four (4) years."

SECTION 4.(a) Section 3.3 of the Charter of the Village of Misenheimer, being Chapter 268 of the Session Laws of 2003, as amended by Chapter 19 of the 2004 Session Laws, reads as rewritten:

"Section 3.3. Manner of Electing Village Council; Term of Office. The qualified voters of the entire Village shall elect the members of the Village Council, and, except as provided in this section, they shall serve four-year terms. In ~~2005, the three candidates receiving the highest numbers of votes shall be elected to four-year terms, and the two candidates receiving the next highest numbers of votes shall be elected to two-year terms.~~ 2015, two members shall be elected for five-year terms, and the three members whose terms expire in 2017 shall continue to serve until 2018. In ~~2007~~, 2020, and quadrennially thereafter, two members shall be elected to four-year terms. In ~~2009~~, 2018, and quadrennially thereafter, three members shall be elected to four-year terms."

SECTION 4.(b) Section 3.4 of the Charter of the Village of Misenheimer, being Chapter 268 of the Session Laws of 2003, reads as rewritten:

"Section 3.4. **Manner of Electing Mayor; Term of Office; Duties.** At the organizational meeting following each municipal election, the Village Council shall elect one of its members as Mayor, and the Mayor shall serve at the pleasure of the Village ~~Council~~. Council, provided that the Mayor elected in 2015 shall serve pursuant to the manner provided in Section 3.3 of this Charter. The Mayor shall be the official head of Village government and shall preside at all meetings of the Village Council. The Mayor shall exercise such powers and duties as conferred by the general laws of this State and this Charter and as directed by the Village Council. In the case of a vacancy in the office of Mayor, the remaining members of the Village Council shall choose from their membership a person to serve as Mayor for the unexpired term."

SECTION 5. Section 3 of the Charter of the Town of New London, being Chapter 91 of the Private Laws of 1907, as amended by Chapter 131 of the 2001 Session Laws, reads as rewritten:

"Sec. 3. The officers of the town shall consist of a mayor and five commissioners, and they shall be elected to four-year terms by the qualified voters of the entire town, except as provided otherwise in this section. In ~~2001, and quadrennially thereafter, a mayor shall be elected to a four-year term. In 2001, for the position of commissioner, the two persons receiving the highest numbers of votes shall be elected to four-year terms and the three persons receiving the next~~

1 ~~highest numbers of votes shall be elected to two-year terms.~~ 2015, the Mayor shall be elected to
2 ~~serve a term of five years, but the Mayor's successors shall serve four-year terms.~~ In 2015, three
3 ~~commissioners shall be elected for five-year terms, and the two commissioners whose terms~~
4 ~~expire in 2017 shall continue to serve until 2018.~~ In 2003,2020, and quadrennially thereafter,
5 three persons shall be elected to four-year terms. In 2005,2018, and quadrennially thereafter,
6 two persons shall be elected to four-year terms."

7 **SECTION 6.** Section 12 of the Charter of the Town of Norwood, being Chapter
8 212 of the Private Laws of 1905, as amended by Chapter 15 of the Session Laws of 2001, reads
9 as rewritten:

10 "Sec. 12. The Commissioners and Mayor shall be elected to four-year terms by the qualified
11 voters of the entire Town, except as provided otherwise in this section. In 2001, ~~and~~
12 ~~quadrennially thereafter, a Mayor shall be elected to a four-year term. In 2001, for the position~~
13 ~~of Commissioner, the two persons receiving the highest numbers of votes shall be elected to~~
14 ~~four-year terms and the three persons receiving the next highest numbers of votes shall be~~
15 ~~elected to two-year terms.~~2015, the Mayor shall be elected to serve a term of five years, but the
16 Mayor's successors shall serve four-year terms. In 2015, three commissioners shall be elected
17 for five-year terms, and the two commissioners whose terms expire in 2017 shall continue to
18 serve until 2018. In 2003,2020, and quadrennially thereafter, three persons shall be elected to
19 four-year terms. In 2005,2018, and quadrennially thereafter, two persons shall be elected to
20 four-year terms."

21 **SECTION 7.** Section 15 of the Charter of the Town of Oakboro, being Chapter 51
22 of the Private Laws of 1915, as amended by ordinance adopted by the Town Board, reads as
23 rewritten:

24 "Sec. 15. That the Mayor of the town of Oakboro shall hold office for the term of two years
25 and until its successor is elected and ~~qualified.~~qualified, except that in 2015, the Mayor elected
26 shall serve a term of three years, but the Mayor's successors shall serve terms of two years. At
27 the regular municipal election held in 2009, the three members of the Board elected who have
28 the highest total of votes shall serve for a four-year term. Those members of the Board who
29 have the lowest total number of votes shall serve for a two-year term. At the regular election
30 held in 2011, and every four years thereafter, members of the Board who were elected for
31 two-year terms in the election of 2009, shall be elected to serve for a four-year term. In 2015,
32 three members of the Board shall be elected for five-year terms, and the two members whose
33 terms expire in 2017 shall continue to serve until 2018. In 2020, and quadrennially thereafter,
34 three persons shall be elected to four-year terms. In 2018, and quadrennially thereafter, two
35 persons shall be elected to four-year terms. That in the absence of any officer of the town, or
36 during sickness of any of the officers, the commissioners may appoint a man to fill the office
37 during his absence or during his inability, and no longer. If the absence be caused by
38 resignation, the board may appoint an officer to fill the unexpired term."

39 **SECTION 8.** Article III of the Charter of the Town of Red Cross, being Chapter 56
40 of the Session Laws of 2002, reads as rewritten:

41 "ARTICLE III. GOVERNING BODY.

42 ...

43 "Section 3.3. **Manner of Electing Town Council; Term of Office.** The qualified voters of
44 the entire Town shall elect the members of the Town Council and, except as provided in this
45 section, they shall be elected to four-year terms. In 2003, ~~the two candidates receiving the~~
46 ~~highest number of votes shall be elected to four-year terms and the two candidates receiving the~~
47 ~~next highest number of votes shall be elected to two-year terms.~~2015, two members shall be
48 elected for five-year terms, and the two members whose terms expire in 2017 shall continue to
49 serve until 2018. In 2005,2018, and biennially thereafter, two members shall be elected to
50 four-year terms.

1 "Section 3.4. **Manner of Electing Mayor; Term of Office; Duties.** The qualified voters of
2 the entire Town shall elect the Mayor. In 2015, the Mayor shall be elected to serve a term of
3 five years. In 2003, 2020, and quadrennially thereafter, the Mayor shall be elected for a term of
4 four years.

5"

6 **SECTION 9.(a)** Section 3 of the Charter of the Town of Richfield, being Chapter
7 204 of the Private Laws of 1915, as amended by Chapter 1066 of the 1953 Session Laws,
8 Chapter 527 of the 1961 Session Laws, and by resolution adopted by the Town Board of
9 Commissioners, reads as rewritten:

10 "Section 3. That the officers of said town shall consist of a mayor and five commissioners,
11 to be elected for ~~staggered 4 year terms~~, and a marshal and secretary and treasurer, to be
12 ~~appointed every two years by the commissioners as provided in Section 4 of this Charter.~~"

13 **SECTION 9.(b)** Section 4 of the Charter of the Town of Richfield, being Chapter
14 204 of the Private Laws of 1915, as amended by Chapter 1066 of the 1953 Session Laws, and
15 Chapter 527 of the 1961 Session Laws, reads as rewritten:

16 "Section 4. ~~That there shall be a convention held in said town for the purpose of electing a~~
17 ~~mayor and five commissioners. The said convention shall be called on the first Tuesday after~~
18 ~~the first Monday in May, 1915, and every two years thereafter. The Mayor whose term expires~~
19 in 2017 shall continue to serve until 2018. In 2018, and quadrennially thereafter, the Mayor
20 shall be elected for a term of four years. In 2015, the three members elected shall serve terms of
21 five years, and their successors shall serve terms of four years. The two members whose terms
22 expire in 2017 shall continue to serve until 2018, and their successors shall serve terms of four
23 years. Notice of said ~~convention~~ election shall be posted at four public places within said town
24 at least thirty days prior to the holding of the convention and all citizens residing within the
25 corporate limits of said town who are qualified voters in Stanly County and who have resided
26 in said town for a period of ninety (90) days before said convention shall be allowed to vote."

27 **SECTION 9.(c)** Section 15 of the Charter of the Town of Richfield, being Chapter
28 204 of the Private Laws of 1915, as amended by Chapter 1066 of the 1953 Session Laws, reads
29 as rewritten:

30 "Section 15. That the officers elected in said town at any ~~convention~~ election shall hold
31 office for the term of four years and until their successors are elected and qualified, and that
32 during the absence of any officer of the town or the sickness of any officer or officers, the
33 commissioners may appoint a man to fill the vacancy during his or their absence, or during his
34 or their inability to fill the same, and no longer. If the absence be caused by resignation, the
35 board of commissioners shall appoint an officer to fill said vacancy or unexpired term."

36 **SECTION 10.** Section 3 of the Charter of the Town of Stanfield, being Chapter
37 1210 of the Session Laws of 1955, as amended by Chapter 485 of the 1957 Session Laws and
38 Ordinance 2009-3 adopted by the Town Commissioners, reads as rewritten:

39 "Sec. 3. MUNICIPAL GOVERNMENT. That the government of the Town of Stanfield
40 shall be vested in a mayor and a board of five commissioners and such other officers as may be
41 provided for in the Municipal Incorporation Act of North Carolina. The mayor and board of
42 commissioners shall be quadrennially elected by the qualified voters of the town, ~~shall provided~~
43 that in 2015, the Mayor shall serve a term of five years, but the Mayor's successors shall serve
44 terms of four years. At the regular municipal election to be held in 2009, the mayor and two
45 members of the Board elected who have the highest total of votes shall serve for a four-year
46 term. The three members of the Board who have the lowest total number of votes shall serve
47 for a two-year term. At the regular municipal election held in 2011, and every four years
48 thereafter, members of the board who were elected for two-year terms in the election of 2009
49 shall be elected to serve for a four-year term. In 2015, three members of the Board shall be
50 elected for five-year terms, and the two members whose terms expire in 2017 shall continue to
51 serve until 2018. In 2020, and quadrennially thereafter, three persons shall be elected to

1 four-year terms. In 2018, and quadrennially thereafter, two persons shall be elected to four-year
2 terms. The Mayor and board of commissioners shall take such oaths of office as provided by
3 law, law and shall have such rights, powers, duties and responsibilities as provided in Article 2
4 of Chapter 160-160A of the General Statutes of North Carolina relating to municipal officers."

5 **SECTION 11.** Notwithstanding any other provision of law to the contrary and
6 except as otherwise provided by federal law, municipal elections held pursuant to this act may
7 be combined on the same official ballot as other ballot items for elections held at the same time.

8 **SECTION 12.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

D

HOUSE BILL 527
Committee Substitute Favorable 4/23/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H527-CSTH-42 [v.6]

9/15/2015 4:11:53 PM

Short Title: Omnibus Local Act.

(Local)

Sponsors:

Referred to:

April 2, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE THAT REGULAR MUNICIPAL ELECTIONS IN THE
3 MUNICIPALITIES OF STANLY COUNTY SHALL BE HELD IN EVEN-NUMBERED
4 YEARS; TO EXTEND THE TERM OF OFFICE FOR THE MAYOR OF THE CITY OF
5 ALBEMARLE FROM TWO YEARS TO FOUR YEARS; TO AMEND THE CHARTER
6 OF THE CITY OF RALEIGH TO AUTHORIZE THE CITY TO SELL, EXCHANGE, OR
7 OTHERWISE TRANSFER REAL PROPERTY; TO CLARIFY THE BOARD VOTING
8 RULES FOR THE ELIZABETH CITY-PASQUOTANK BOARD OF EDUCATION;
9 AND TO ADD BEAUFORT, DARE, GATES, AND HYDE COUNTIES TO THE LIST
10 OF COUNTIES COVERED BY G.S. 153A-15.

11 The General Assembly of North Carolina enacts:

12 **SECTION 1.(a)** Section 3.1 of the Charter of the City of Albemarle, being Chapter
13 259 of the Session Laws of 1979, as amended by Ordinance 95-18 adopted by the City Council,
14 reads as rewritten:

15 "Section 3.1. Regular Municipal Elections; Conduct and Method of Election. ~~Regular~~
16 ~~municipal elections for Mayor shall be held in the City in 1979 and every two years thereafter~~
17 ~~and Elections~~ shall be conducted in accordance with the uniform municipal election laws of
18 North Carolina. The Mayor and members of the City Council shall be elected according to the
19 partisan primary and elections method for statewide office as provided in
20 G.S. 163-291, G.S. 163-1."

21 **SECTION 1.(b)** Section 3.2 of the Charter of the City of Albemarle, being Chapter
22 259 of the Session Laws of 1979, as amended by Chapter 881 of the 1987 Session Laws and
23 Ordinance 95-18 adopted by the City Council, reads as rewritten:

24 "Section 3.2. Election of Mayor and Council Members. At the regular municipal election in
25 2015, there shall be nominated and elected a Mayor for a term of five years. At the regular
26 municipal election in 1991-2020 and every two-four years thereafter, there shall be nominated
27 and elected a Mayor. Mayor to serve for a term of four years.

28 ~~At the regular municipal election to be held in 1995, members of the City Council shall be~~
29 ~~nominated and elected as follows. The member of Council from District 1 and the member of~~
30 ~~Council from District 3 shall be nominated and elected by and from the qualified voters of the~~
31 ~~electoral district to serve for a four year term. The member of Council from District 2 and the~~
32 ~~member of Council from District 4 shall be nominated and elected by and from the qualified~~
33 ~~voters of the electoral district to serve for a two year term. Three members of Council shall be~~
34 ~~nominated and elected at large by and from the qualified voters of the City. The two at large~~
35 ~~members of Council receiving the highest number of votes in the regular municipal election~~





1 shall be elected to serve for a four year term. The at large member of Council receiving the next
2 highest number of votes in the regular municipal election shall be elected to serve for a two
3 year term.

4 The City Council shall consist of seven members, each residing in and elected from
5 districts. At the regular municipal election held in 2015, members of the Council from District
6 1, District 3, and the two members elected at-large in the 2011 regular municipal election shall
7 each be elected to a term of five years. The members of the Council from District 2, District 4,
8 and the member elected at-large in the 2013 regular municipal election shall continue to serve
9 until 2018.

10 At the regular municipal election held in ~~1997~~2018 and every four years thereafter, the
11 member of Council from District 2, the member of Council from District 4, and the member of
12 Council elected at large in the ~~1995~~2013 regular municipal election ~~to serve a two year term~~
13 shall be nominated and elected to serve a four year term.

14 At the regular municipal election held in ~~1999~~2020 and every four years thereafter, the
15 member of Council from District 1, the member of Council from District 3, and the two
16 members of Council elected at large in the ~~1995~~2015 regular municipal election ~~to serve a four~~
17 ~~year term~~ shall be nominated and elected to serve for a four year term."

18 **SECTION 2.** Chapter III of the Charter of the Town of Badin, being Chapter 894
19 of the Session Laws of 1989, reads as rewritten:

20 "CHAPTER III.
21 "GOVERNING BODY.
22

23 ...
24 "Sec. 3.3. Term of office of Council members. ~~The initial members of the Council shall be~~
25 ~~elected in 1990 at the same time as the general election for county officers, and the procedure~~
26 ~~shall be as generally provided for election of municipal officers in an odd-numbered year,~~
27 ~~except that the filing period shall open as soon as the results of the incorporation referendum~~
28 ~~are certified, and shall end at 12:00 noon on the third Friday after that date. The initial district~~
29 ~~members are elected for three year terms, their successors shall be elected in 1993 and~~
30 ~~quadrennially thereafter for four year terms. In 1990, the at-large candidate receiving the~~
31 ~~highest number of votes is elected to a three year term, and the two at-large candidates~~
32 ~~receiving the next highest numbers of votes are elected to one year terms. In 1991 and~~
33 ~~quadrennially thereafter, two at-large members are elected for four year terms. In 1993 and~~
34 ~~quadrennially thereafter, one at-large member is elected for a four year term. Initial town~~
35 ~~officers shall take office on the Monday following the canvassing of the returns of their~~
36 ~~election, at a time and place designated by any three of them. In 2015, the two at-large members~~
37 shall serve for terms of five years, and their successors shall serve terms of four years. Each of
38 the resident district members and the at-large members whose terms expire in 2017 shall
39 continue to serve until 2018, and their successors shall be elected to serve terms of four years.
40 Regular municipal elections shall be held in each even-numbered year thereafter in accordance
41 with Chapter IV of this Charter.

42 "Sec. 3.4. Selection of Mayor: term of office. The members of the Town Council shall,
43 from among their members, elect the Mayor at their organizational meeting to serve a two-year
44 term, except that the Mayor elected in ~~1990~~2015 shall serve a ~~one year~~three-year term."

45 **SECTION 3.(a)** Article III of the Charter of the Town of Locust, being Chapter
46 246 of the Session Laws of 1973, as amended by Chapter 41 of the 1977 Session Laws, reads
47 as rewritten:

48 "...
49 "Sec. 3.2. Mayor and Mayor Pro Tempore. The Mayor shall be a resident and qualified
50 voter of the City of Locust and shall be elected by the qualified voters of the City of Locust,
51 and he shall hold office for two (2) ~~years~~years, except that the Mayor elected in 2015 shall
serve a term of three years, but the Mayor's successors shall serve terms of two years. In the



1 case of a vacancy in the office of Mayor, the City Council shall by appointment fill the vacancy
2 for the unexpired term. The Mayor shall be the official head of the City government and shall
3 preside at all meetings of the City Council. When there is an equal division upon any question,
4 or in the appointment of officers, by the Council, the Mayor shall determine the matter by his
5 vote, and shall vote in no other case. The Mayor shall exercise such powers and perform such
6 duties as are or may be conferred upon him by the general laws of North Carolina, by this
7 Charter, and by the ordinances of the City. The City Council shall choose one of its number to
8 act as Mayor Pro Tempore, and he shall perform the duties of the Mayor in the Mayor's absence
9 or disability. The Mayor Pro Tempore as such shall have no fixed term of office, but shall serve
10 in such capacity at the pleasure of the remaining members of the Council.

11 "Sec. 3.3. Composition of City Council. Beginning with the election to be held on
12 November ~~8, 1977~~, 3, 2015, the City Council shall consist of seven (7) members to be elected
13 by and from the qualified voters of the city voting at large in the manner provided by Article
14 IV.

15"

16 **SECTION 3.(b)** Section 4.1 of the Charter of the Town of Locust, being Chapter
17 246 of the Session Laws of 1973, as amended by Chapter 41 of the 1977 Session Laws, reads
18 as rewritten:

19 "Sec. 4.1. Regular Municipal Elections. Regular municipal elections shall be held on the
20 Tuesday after the first Monday in November of each ~~odd-numbered year which began in~~
21 ~~1973-even-numbered year except as provided in this section.~~ In the regular election in ~~1977~~
22 2015, there shall be elected three (3) councilmen. The three (3) candidates receiving the highest
23 number of votes shall be elected for terms of four (4) years. In the regular election of 1979,
24 there shall be elected four (4) councilmen, and the four (4) candidates receiving the highest
25 number of votes shall be elected for four (4) years. four members shall be elected for terms of
26 five years, and the three members whose terms expire in 2017 shall continue to serve until
27 2018. Thereafter as the terms of members expire, their successors shall be elected for terms of
28 four (4) years."

29 **SECTION 4.(a)** Section 3.3 of the Charter of the Village of Misenheimer, being
30 Chapter 268 of the Session Laws of 2003, as amended by Chapter 19 of the 2004 Session
31 Laws, reads as rewritten:

32 "Section 3.3. Manner of Electing Village Council; Term of Office. The qualified voters of
33 the entire Village shall elect the members of the Village Council, and, except as provided in
34 this section, they shall serve four-year terms. In ~~2005, the three candidates receiving the highest~~
35 ~~numbers of votes shall be elected to four-year terms, and the two candidates receiving the next~~
36 ~~highest numbers of votes shall be elected to two-year terms.~~ 2015, two members shall be elected
37 for five-year terms, and the three members whose terms expire in 2017 shall continue to serve
38 until 2018. In 2007, 2020, and quadrennially thereafter, two members shall be elected to
39 four-year terms. In 2009, 2018, and quadrennially thereafter, three members shall be elected to
40 four-year terms."

41 **SECTION 4.(b)** Section 3.4 of the Charter of the Village of Misenheimer, being
42 Chapter 268 of the Session Laws of 2003, reads as rewritten:

43 "Section 3.4. **Manner of Electing Mayor; Term of Office; Duties.** At the organizational
44 meeting following each municipal election, the Village Council shall elect one of its members
45 as Mayor, and the Mayor shall serve at the pleasure of the Village ~~Council.~~ Council, provided
46 that the Mayor elected in 2015 shall serve pursuant to the manner provided in Section 3.3 of
47 this Charter. The Mayor shall be the official head of Village government and shall preside at all
48 meetings of the Village Council. The Mayor shall exercise such powers and duties as conferred
49 by the general laws of this State and this Charter and as directed by the Village Council. In the
50 case of a vacancy in the office of Mayor, the remaining members of the Village Council shall
51 choose from their membership a person to serve as Mayor for the unexpired term."



1 **SECTION 5.** Section 3 of the Charter of the Town of New London, being Chapter
2 91 of the Private Laws of 1907, as amended by Chapter 131 of the 2001 Session Laws, reads as
3 rewritten:

4 "Sec. 3. The officers of the town shall consist of a mayor and five commissioners, and they
5 shall be elected to four-year terms by the qualified voters of the entire town, except as provided
6 otherwise in this section. ~~In 2001, and quadrennially thereafter, a mayor shall be elected to a~~
7 ~~four year term. In 2001, for the position of commissioner, the two persons receiving the highest~~
8 ~~numbers of votes shall be elected to four year terms and the three persons receiving the next~~
9 ~~highest numbers of votes shall be elected to two year terms.~~ 2015, the Mayor shall be elected to
10 serve a term of five years, but the Mayor's successors shall serve four-year terms. In 2015, three
11 commissioners shall be elected for five-year terms, and the two commissioners whose terms
12 expire in 2017 shall continue to serve until 2018. In 2003,2020, and quadrennially thereafter,
13 three persons shall be elected to four-year terms. In 2005,2018, and quadrennially thereafter,
14 two persons shall be elected to four-year terms."

15 **SECTION 6.** Section 12 of the Charter of the Town of Norwood, being Chapter
16 212 of the Private Laws of 1905, as amended by Chapter 15 of the Session Laws of 2001, reads
17 as rewritten:

18 "Sec. 12. The Commissioners and Mayor shall be elected to four-year terms by the qualified
19 voters of the entire Town, except as provided otherwise in this section. ~~In 2001, and~~
20 ~~quadrennially thereafter, a Mayor shall be elected to a four year term. In 2001, for the position~~
21 ~~of Commissioner, the two persons receiving the highest numbers of votes shall be elected to~~
22 ~~four year terms and the three persons receiving the next highest numbers of votes shall be~~
23 ~~elected to two year terms.~~ 2015, the Mayor shall be elected to serve a term of five years, but the
24 Mayor's successors shall serve four-year terms. In 2015, three commissioners shall be elected
25 for five-year terms, and the two commissioners whose terms expire in 2017 shall continue to
26 serve until 2018. In 2003,2020, and quadrennially thereafter, three persons shall be elected to
27 four-year terms. In 2005,2018, and quadrennially thereafter, two persons shall be elected to
28 four-year terms."

29 **SECTION 7.** Section 15 of the Charter of the Town of Oakboro, being Chapter 51
30 of the Private Laws of 1915, as amended by ordinance adopted by the Town Board, reads as
31 rewritten:

32 "Sec. 15. That the Mayor of the town of Oakboro shall hold office for the term of two years
33 and until its successor is elected and ~~qualified~~ qualified, except that in 2015, the Mayor elected
34 shall serve a term of three years, but the Mayor's successors shall serve terms of two years. At
35 the regular municipal election held in 2009, the three members of the Board elected who have
36 the highest total of votes shall serve for a four year term. Those members of the Board who
37 have the lowest total number of votes shall serve for a two-year term. At the regular election
38 held in 2011, and every four years thereafter, members of the Board who were elected for
39 two-year terms in the election of 2009, shall be elected to serve for a four-year term. In 2015,
40 three members of the Board shall be elected for five-year terms, and the two members whose
41 terms expire in 2017 shall continue to serve until 2018. In 2020, and quadrennially thereafter,
42 three persons shall be elected to four-year terms. In 2018, and quadrennially thereafter, two
43 persons shall be elected to four-year terms. That in the absence of any officer of the town, or
44 during sickness of any of the officers, the commissioners may appoint a man to fill the office
45 during his absence or during his inability, and no longer. If the absence be caused by
46 resignation, the board may appoint an officer to fill the unexpired term."

47 **SECTION 8.** Article III of the Charter of the Town of Red Cross, being Chapter 56
48 of the Session Laws of 2002, reads as rewritten:

49 "ARTICLE III. GOVERNING BODY.

50 ...



1 "Section 3.3. **Manner of Electing Town Council; Term of Office.** The qualified voters of
2 the entire Town shall elect the members of the Town Council and, except as provided in this
3 section, they shall be elected to four-year terms. In ~~2003, the two candidates receiving the~~
4 ~~highest number of votes shall be elected to four-year terms and the two candidates receiving the~~
5 ~~next highest number of votes shall be elected to two-year terms.~~ 2015, two members shall be
6 elected for five-year terms, and the two members whose terms expire in 2017 shall continue to
7 serve until 2018. In ~~2005, 2018,~~ and biennially thereafter, two members shall be elected to
8 four-year terms.

9 "Section 3.4. **Manner of Electing Mayor; Term of Office; Duties.** The qualified voters of
10 the entire Town shall elect the Mayor. In 2015, the Mayor shall be elected to serve a term of
11 five years. In ~~2003, 2020,~~ and quadrennially thereafter, the Mayor shall be elected for a term of
12 four years.

13"

14 **SECTION 9.(a)** Section 3 of the Charter of the Town of Richfield, being Chapter
15 204 of the Private Laws of 1915, as amended by Chapter 1066 of the 1953 Session Laws,
16 Chapter 527 of the 1961 Session Laws, and by resolution adopted by the Town Board of
17 Commissioners, reads as rewritten:

18 "Section 3. That the officers of said town shall consist of a mayor and five commissioners,
19 to be elected ~~for staggered 4-year terms, and a marshal and secretary and treasurer, to be~~
20 ~~appointed every two years by the commissioners as provided in Section 4 of this Charter."~~

21 **SECTION 9.(b)** Section 4 of the Charter of the Town of Richfield, being Chapter
22 204 of the Private Laws of 1915, as amended by Chapter 1066 of the 1953 Session Laws, and
23 Chapter 527 of the 1961 Session Laws, reads as rewritten:

24 "Section 4. ~~That there shall be a convention held in said town for the purpose of electing a~~
25 ~~mayor and five commissioners. The said convention shall be called on the first Tuesday after~~
26 ~~the first Monday in May, 1915, and every two years thereafter.~~ The Mayor whose term expires
27 in 2017 shall continue to serve until 2018. In 2018, and quadrennially thereafter, the Mayor
28 shall be elected for a term of four years. In 2015, the three members elected shall serve terms of
29 five years, and their successors shall serve terms of four years. The two members whose terms
30 expire in 2017 shall continue to serve until 2018, and their successors shall serve terms of four
31 years. Notice of said ~~convention~~ election shall be posted at four public places within said town
32 at least thirty days prior to the holding of the convention and all citizens residing within the
33 corporate limits of said town who are qualified voters in Stanly County and who have resided
34 in said town for a period of ninety (90) days before said convention shall be allowed to vote."

35 **SECTION 9.(c)** Section 15 of the Charter of the Town of Richfield, being Chapter
36 204 of the Private Laws of 1915, as amended by Chapter 1066 of the 1953 Session Laws, reads
37 as rewritten:

38 "Section 15. That the officers elected in said town at any ~~convention~~ election shall hold
39 office for the term of four years and until their successors are elected and qualified, and that
40 during the absence of any officer of the town or the sickness of any officer or officers, the
41 commissioners may appoint a man to fill the vacancy during his or their absence, or during his
42 or their inability to fill the same, and no longer. If the absence be caused by resignation, the
43 board of commissioners shall appoint an officer to fill said vacancy or unexpired term."

44 **SECTION 10.** Section 3 of the Charter of the Town of Stanfield, being Chapter
45 1210 of the Session Laws of 1955, as amended by Chapter 485 of the 1957 Session Laws and
46 Ordinance 2009-3 adopted by the Town Commissioners, reads as rewritten:

47 "Sec. 3. MUNICIPAL GOVERNMENT. That the government of the Town of Stanfield
48 shall be vested in a mayor and a board of five commissioners and such other officers as may be
49 provided for in the Municipal Incorporation Act of North Carolina. The mayor and board of
50 commissioners shall be quadrennially elected by the qualified voters of the town, ~~shall provided~~
51 that in 2015, the Mayor shall serve a term of five years, but the Mayor's successors shall serve



terms of four years. At the regular municipal election to be held in 2009, the mayor and two members of the Board elected who have the highest total of votes shall serve for a four-year term. The three members of the Board who have the lowest total number of votes shall serve for a two-year term. At the regular municipal election held in 2011, and every four years thereafter, members of the board who were elected for two-year terms in the election of 2009 shall be elected to serve for a four-year term. In 2015, three members of the Board shall be elected for five-year terms, and the two members whose terms expire in 2017 shall continue to serve until 2018. In 2020, and quadrennially thereafter, three persons shall be elected to four-year terms. In 2018, and quadrennially thereafter, two persons shall be elected to four-year terms. The Mayor and board of commissioners shall take such oaths of office as provided by law, law and shall have such rights, powers, duties and responsibilities as provided in Article 2 of Chapter 160-160A of the General Statutes of North Carolina relating to municipal officers."

SECTION 11. Section 22 of the Charter of the City of Raleigh, being Chapter 1184 of the 1949 Session Laws, as amended, is amended by adding the following new subsection:

"(88). Conveyance of Real Property. When the City Council determines that a sale or disposition of real property will advance or further any Council adopted economic development, transportation, urban revitalization, community development, or other City policy, the City may, in addition to other authorized means, sell, exchange, or transfer the fee or any lesser interest in real property, either by public sale or by negotiated private sale. Any conveyance under this section may be made only pursuant to a resolution of the City Council authorizing the conveyance. Notice of the proposed transaction shall be given at least 10 days prior to adoption of the resolution by generally authorized legal advertising methods, and the notice shall generally describe: (i) the property involved; (ii) the nature of the interest to be conveyed; and (iii) all of the material terms of the proposed transaction. The notice shall give the time and place of the City Council meeting where the proposed transaction will be considered and shall announce the Council's intention to authorize the proposed transaction."

SECTION 12. Section 3 of Chapter 29 of the 1967 Session Laws, as amended by Chapter 8 of the 1977 Session Laws and by Section 9(b) of S.L. 2005-305, reads as rewritten:

"Sec. 3. Three members of the Board shall be residents within the Elizabeth City Township, hereinafter referred to as "inside members", and three members of the Board shall be residents of the other townships outside Elizabeth City Township, hereinafter referred to as "outside members". The remaining member shall hereinafter be referred to as the "at-large member" and shall be a county resident with no residence required within a particular township area.

Candidates for membership on the Board shall file for office at the same time and on the same terms and conditions as candidates for other county offices. Candidates shall file, based upon residency, for any available "inside member" seats, "outside member" seats, or the "at-large member" seat that they qualify for by virtue of the residency at the time of filing. However, there shall be no primary, and filed candidates for each type of available seat shall be placed on the general election ballot to be voted on by all qualified voters of the county. Each voter shall have the right to vote in each race for "inside member" seats, "outside members" seats, or the "at-large member" seat up to the number of open seats up for election as to each particular type of seat, but may not cast more than one vote for each candidate. The election shall be held on a nonpartisan plurality basis with the candidates receiving the highest number of votes for each type of seat filling the available open seat or seats in descending order of their vote totals. Candidates elected shall take office the first Monday in December, and shall serve a four-year term.

All vacancies shall be filled by appointment by the remainder of the Board within 60 days, and the person so appointed shall serve the remainder of the unexpired term.



1 Terms shall be staggered, with two "inside member" seats and two "outside member" seats
2 being elected in 2006 and every four years thereafter, and one "inside member" seat, one
3 "outside member" seat, and the "at-large member" seat being elected in 2008 and every four
4 years thereafter.

5 ~~The Elizabeth City-Pasquotank Board of Education shall elect a chairman and vice~~
6 ~~chairman to preside over its meetings, and the vice chairman shall be entitled to vote in all~~
7 ~~matters being considered by said Board but neither the chairman nor the vice chairman shall~~
8 ~~have the authority to cast a vote to create a tie vote and then vote again to break the tie.~~

9 The Elizabeth City-Pasquotank Board of Education shall elect a chair to preside over its
10 meetings and a vice-chair to preside over its meetings in the chair's absence. The chair shall not
11 vote on any matters being considered by said Board, unless there is a tie vote, in which case the
12 chair shall cast the deciding vote. When the chair is present at a meeting, the vice-chair shall be
13 entitled to vote on all matters being considered by said Board. When the vice-chair is presiding
14 over a meeting in the chair's absence, the vice-chair shall not vote on any matters being
15 considered by said Board, unless there is a tie vote, in which case the vice-chair shall cast the
16 deciding vote. Neither the chair nor the vice-chair shall have the authority to cast a vote to
17 create a tie vote and then vote again to break the tie.

18 The Elizabeth City-Pasquotank Board of Education shall control, administer and operate all
19 of the public schools in Pasquotank County, including the public schools now located in the
20 Elizabeth City Administrative Unit, as well as the public schools now located in the Pasquotank
21 County Administrative Unit. The Elizabeth City-Pasquotank Board of Education shall exercise
22 all the powers, authority and duties as are now exercised and performed by city and county
23 boards of education and as provided by Chapter 115 of the General Statutes, as revised and
24 amended, and as the same may hereafter be revised and amended. All members of the said
25 Board shall hold their offices until their successors are elected and qualified."

26 **SECTION 13. G.S. 153A-15 reads as rewritten:**

27 **"§ 153A-15. Consent of board of commissioners necessary in certain counties before land**
28 **may be condemned or acquired by a unit of local government outside the**
29 **county.**

30 (a) Notwithstanding the provisions of Chapter 40A of the General Statutes or any other
31 general law or local act conferring the power of eminent domain, before final judgment may be
32 entered in any action of condemnation initiated by a county, city or town, special district, or
33 other unit of local government which is located wholly or primarily outside another county,
34 whereby the condemnor seeks to acquire property located in the other county, the condemnor
35 shall furnish proof that the county board of commissioners of the county where the land is
36 located has consented to the taking.

37 (b) Notwithstanding the provisions of G.S. 153A-158, 160A-240.1, 130A-55, or any
38 other general law or local act conferring the power to acquire real property, before any county,
39 city or town, special district, or other unit of local government which is located wholly or
40 primarily outside another county acquires any real property located in the other county by
41 exchange, purchase or lease, it must have the approval of the county board of commissioners of
42 the county where the land is located.

43 (c) This section applies to Alamance, Alleghany, Anson, Ashe, Beaufort, Bertie,
44 Bladen, Brunswick, Burke, Buncombe, Cabarrus, Caldwell, Camden, Carteret, Caswell,
45 Catawba, Chatham, Cherokee, Clay, Cleveland, Columbus, Craven, Cumberland, Currituck,
46 Dare, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Gates,
47 Graham, Granville, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hoke, Hyde,
48 Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Madison, Martin, McDowell,
49 Mecklenburg, Montgomery, Nash, New Hanover, Northampton, Onslow, Orange, Pamlico,
50 Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Richmond, Robeson, Rockingham,



1 Rowan, Rutherford, Sampson, Scotland, Stanly, Stokes, Surry, Swain, Transylvania, Union,
2 Vance, Wake, Warren, Watauga, Wayne, Wilkes, and Yancey Counties only.

3 (d) This section does not apply as to any condemnation or acquisition of real property
4 or an interest in real property by a city where the property to be condemned or acquired is
5 within the corporate limits of that city."

6 **SECTION 14.** Notwithstanding any other provision of law to the contrary and
7 except as otherwise provided by federal law, municipal elections held pursuant to this act may
8 be combined on the same official ballot as other ballot items for elections held at the same time.

9 **SECTION 15.** This act is effective when it becomes law.





HOUSE BILL 527: Omnibus Local Act

2015-2016 General Assembly

Committee: Rules and Operations of the Senate
Introduced by: Rep. Burr
Analysis of: PCS to Second Edition
H527-CSTH-42

Date: September 16, 2015
Prepared by: Kelly Tornow
Staff Attorney

SUMMARY: *The PCS for House Bill 527 would: (1) provide that regular municipal elections in the municipalities of Stanly County shall be held in even-numbered years; (2) extend the term of office for the Mayor of the City of Albemarle from two years to four years; (3) amend the Charter of the City of Raleigh to authorize the city to sell, exchange, or otherwise transfer real property; (4) clarify the Board voting rules for the Elizabeth City-Pasquotank Board of Education; and to add Beaufort, Dare, Gates, and Hyde Counties to the list of counties covered by G.S. 153A-15.*

CURRENT LAW & BILL ANALYSIS:

Section 1. Currently, regular municipal elections in the City of Albemarle are held in odd-numbered years, and the mayor serves a two-year term. Section 1 would provide that regular municipal elections in the City of Albemarle are to be held in even-numbered years and would extend the term of office for the Mayor of the City of Albemarle from two years to four years.

Sections 2 through 10. Currently, regular municipal elections in the municipalities of Stanly County are held in odd-numbered years. Sections 2 through 10 of the PCS would provide that regular municipal elections for the municipalities of Stanly County are to be held in even-numbered years (Towns of Badin, Locust, New London, Norwood, Oakboro, Red Cross, Richfield, and Stanfield, and the Village of Misenheimer).

Section 11. City governments generally dispose of real and personal property in accordance with the procedures established by Article 12 of Chapter 160A. Subject to certain limitations, a city can dispose of real or personal property belonging to the city by:

- Private negotiation and sale
- Advertisement for sealed bids
- Negotiated offer, advertisement, and upset bid
- Public auction
- Exchange

Section 11 would provide an additional method for the City of Raleigh to sell or exchange property by amending the Charter of the City of Raleigh to allow the city to sell, exchange, or transfer real property by public sale or negotiated private sale when the City Council determines that a sale or disposition of real property will advance or further any Council-adopted economic development, transportation, urban revitalization, community development, or other city policy. The City Council must authorize the conveyance by resolution, and at least ten days' notice must be given prior to adoption of the resolution.

O. Walker Reagan
Director



Research Division
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House Bill 527

Page 2

The notice must give the time and place of the City Council meeting where the proposed transaction will be considered and must announce the Council's intention to authorize the proposed transaction.

Section 12. The Elizabeth City-Pasquotank Board of Education is composed of seven members. The chair and vice chair of the Board of Education are selected by the Board. The chair is to preside over the meetings. The vice chair is entitled to vote in all matters, but neither the chair nor the vice chair may vote to create a tie, then vote to break the tie.

Section 12 of the PCS would clarify that the chair votes only in the case of a tie, and that the vice chair, when sitting as the chair, shall vote only in the case of a tie. Otherwise, the vice chair may vote on matters before the board.

Section 13. G.S. 153A-15 states that when a county, municipality, or other unit of local government seeks to obtain property *located in another county* by eminent domain, purchase, lease, or exchange, the board of commissioners in the county where the property is located must approve the acquisition. Currently, G.S. 153A-15 applies in 85 counties.

Section 13 of the PCS would add Beaufort, Dare, Gates, and Hyde Counties to the counties in which this law applies.

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





NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 527

H527-ATD-105 [v.2]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 1

Amends Title [NO]
PCS to Second Edition

Date _____, 2015

Senator Wade

- 1 moves to amend the bill on page 7, line 43, by deleting the term "Beaufort".
2
3

SIGNED

Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



* H 5 2 7 - A T D - 1 0 5 - V - 2 *

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

1

HOUSE BILL 112

Short Title: Stanly Co Bd of Ed Election Method.

(Local)

Sponsors: Representative Burr (Primary Sponsor).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Elections, if favorable, Local Government.

February 27, 2015

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE PARTISAN ELECTION OF THE MEMBERS OF THE
STANLY COUNTY BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the Plan for the Merger of the Stanly County and Albemarle City Schools or any other provision of law, beginning in 2016, the members of Stanly County Board of Education shall be elected on a partisan basis at the time of the general election in each even-numbered year as terms expire. Candidates for election to the Stanly County Board of Education shall be nominated at the same time and manner as other county officers. Vacancies on the Stanly County Board of Education for positions elected on a partisan basis shall be filled in accordance with G.S. 115C-37.1.

SECTION 2. Effective the first Monday in December of 2016, G.S. 115C-37.1(d) reads as rewritten:

"(d) This section shall apply only in the following counties: Alleghany, Brunswick, Graham, Guilford, Harnett, Lee, New Hanover, Stanly, Vance, and Washington."

SECTION 3. This act does not affect the terms of office of any person elected in 2012 or 2014 to the Stanly County Board of Education. Any vacancy occurring in the Stanly County Board of Education by death, resignation, or otherwise for positions elected on a nonpartisan basis in 2012 or 2014 shall be filled by the remaining members of the Board of Education, and the person chosen shall serve for the unexpired term and until his or her successor is elected and qualified.

SECTION 4. All laws and clauses of laws in conflict with this act are repealed to the extent of the conflict.

SECTION 5. Except as otherwise provided, this act is effective when it becomes law.



* H 1 1 2 - V - 1 *





HOUSE BILL 112: Stanly Co Bd of Ed Election Method

2015-2016 General Assembly

Committee: Rules and Operations of the Senate
Introduced by: Rep. Burr
Analysis of: First Edition

Date: September 16, 2015
Prepared by: Kelly Tornow
Staff Attorney

SUMMARY: *House Bill 112 would change the method of election of the Stanly County Board of Education from nonpartisan to partisan, and require vacancies be appointed in consultation with the county executive committee of the party of the vacating member.*

CURRENT LAW: The Stanly County Board of Education (Board) consists of seven members elected for four year staggered terms in nonpartisan elections. Members are elected in even-numbered years at the general election, and take office at the December board meeting. Five members are elected from single member residency districts, voted countywide, and two members are elected at large. Vacancies occurring on the Board are filled by the remaining members of the Board.

BILL ANALYSIS: House Bill 112 would change the method of election for the Board members from nonpartisan to partisan.

The bill would also require that, effective the first Monday in December 2016, vacancies for the Board would be filled as required in G.S. 115C-37.1. That statute requires the remaining members of the board of education to consult with the county executive committee of the party the vacating member was elected as a nominee of on the vacancy appointment, and if the county executive committee makes a recommendation within 30 days of the vacancy, to appoint the individual recommended by the committee.

HB 112 specifies that the act does not affect terms of office or vacancy procedure for members of the Board elected in 2012 and 2014. The bill also repeals any laws in conflict.

EFFECTIVE DATE: Except as otherwise noted, HB 122 would become effective when it becomes law.

Kara McCraw, counsel to House Elections, substantially contributed to this summary.





GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

4

HOUSE BILL 20
Committee Substitute Favorable 4/27/15
Third Edition Engrossed 4/29/15
Senate Health Care Committee Substitute Adopted 7/21/15

Short Title: Reagan's Rule/Enforce Pharm. Ben. Mgt.

(Public)

Sponsors:

Referred to:

January 29, 2015

A BILL TO BE ENTITLED
AN ACT TO (1) ENCOURAGE PARENT EDUCATION DURING WELL-CHILD VISITS
AT SPECIFIC AGE INTERVALS REGARDING TYPE I DIABETES AND (2) TO
AMEND THE LAW PERTAINING TO PHARMACY BENEFIT MANAGERS.

The General Assembly of North Carolina enacts:

SECTION 1. Part 3 of Article 7 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ 130A-221.5. Diabetes education as part of well-child care.

Each physician, physician assistant, or certified nurse practitioner who provides well-child care is encouraged to educate and discuss the warning signs of Type I diabetes and symptoms with each parent for each child under the care of the physician, physician assistant, or certified nurse practitioner at least once at the following age intervals:

- (1) Birth.
- (2) Twelve months of age.
- (3) Twenty-four months of age.
- (4) Thirty-six months of age.
- (5) Forty-eight months of age.
- (6) Sixty months of age."

SECTION 2. G.S. 58-2-70 reads as rewritten:

"§ 58-2-70. Civil penalties or restitution for violations; administrative procedure.

(a) ~~This section applies to any person who is subject to licensure or certification under this Chapter.~~ is either of the following:

- (1) Subject to licensure or certification under this Chapter; or
- (2) A pharmacy benefits manager as defined in G.S. 58-56A-1.

(b) ~~Whenever the Commissioner has reason to believe that any person has violated any of the provisions of this Chapter, and the violation subjects the license or certification of that person to suspension or revocation, the Commissioner may, after notice and opportunity for a hearing, proceed under the appropriate subsections of this section.~~ The Commissioner may, after notice and opportunity for a hearing, proceed under the appropriate subsections of this section whenever the Commissioner has reason to believe either of the following:

- (1) That any person has violated any of the provisions of this Chapter, and the violation subjects the license or certification of that person to suspension or revocation; or
- (2) That a pharmacy benefits manager has violated G.S. 58-56A-5.



* H 2 0 - V - 4 *

1 (c) If, under subsection (b) of this section, the Commissioner finds a violation of this
2 Chapter, the Commissioner may, in addition to or instead of suspending or revoking the license
3 or certification, order the payment of a monetary penalty as provided in subsection (d) of this
4 section or petition the Superior Court of Wake County for an order directing payment of
5 restitution as provided in subsection (e) of this section, or both. Each day during which a
6 violation occurs constitutes a separate violation.

7 (d) If the Commissioner orders the payment of a monetary penalty pursuant to
8 subsection (c) of this section, the penalty shall not be less than one hundred dollars (\$100.00)
9 nor more than one thousand dollars (\$1,000). In determining the amount of the penalty, the
10 Commissioner shall consider the degree and extent of harm caused by the violation, the amount
11 of money that inured to the benefit of the violator as a result of the violation, whether the
12 violation was committed willfully, and the prior record of the violator in complying or failing
13 to comply with laws, rules, or orders applicable to the violator. The clear proceeds of the
14 penalty shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with
15 G.S. 115C-457.2. Payment of the civil penalty under this section shall be in addition to
16 payment of any other penalty for a violation of the criminal laws of this State.

17 (d1) In the case of a monetary penalty imposed upon a pharmacy benefits manager found
18 to have violated G.S. 58-56A-5, the Commissioner may, at the Commissioner's discretion,
19 impose an additional penalty of up to one thousand dollars (\$1,000) per prescription for each
20 prescription found to have been improperly reimbursed as a result of the pharmacy benefits
21 manager's failure to comply with G.S. 58-56A-5. This subsection shall apply only to pharmacy
22 benefits managers as defined in G.S. 58-56A-1.

23 (e) Upon petition of the Commissioner the court may order the person who committed a
24 violation specified in subsection (c) of this section to make restitution in an amount that would
25 make whole any person harmed by the violation. The petition may be made at any time and
26 also in any appeal of the Commissioner's order.

27 (f) Restitution to any State agency for extraordinary administrative expenses incurred
28 in the investigation and hearing of the violation may also be ordered by the court in such
29 amount that would reimburse the agency for the expenses.

30 (g) Nothing in this section prevents the Commissioner from negotiating a mutually
31 acceptable agreement with any person as to the status of the person's license or certificate or as
32 to any civil penalty or restitution.

33 (h) Unless otherwise specifically provided for, all administrative proceedings under this
34 Chapter are governed by Chapter 150B of the General Statutes. Appeals of the Commissioner's
35 orders under this section shall be governed by G.S. 58-2-75."

36 **SECTION 3.** Section 1 of this act becomes effective October 1, 2015. The
37 remaining sections of this act are effective when this act becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

D

HOUSE BILL 20
Committee Substitute Favorable 4/27/15
Third Edition Engrossed 4/29/15
Senate Health Care Committee Substitute Adopted 7/21/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H20-CSTY-6 [v.1]
9/15/2015 6:42:13 PM

Short Title: Rural Access to Health Care Act.

(Public)

Sponsors:

Referred to:

January 29, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO ENCOURAGE PARENT EDUCATION DURING WELL-CHILD VISITS AT
3 SPECIFIC AGE INTERVALS REGARDING TYPE I DIABETES; AMEND THE LAW
4 PERTAINING TO PHARMACY BENEFIT MANAGERS; AMEND THE
5 REQUIREMENTS FOR A MUNICIPALITY OR HOSPITAL AUTHORITY TO
6 APPROVE THE SALE OR LEASE OF A PUBLIC HOSPITAL; CLARIFY THE
7 DEFINITION OF "EXISTING HOSPITAL" FOR PURPOSES OF THE HOSPITAL
8 LICENSURE ACT; AND REPEAL NORTH CAROLINA'S CERTIFICATE OF PUBLIC
9 ADVANTAGE LAWS.

10 The General Assembly of North Carolina enacts:

11 **SECTION 1.** Part 3 of Article 7 of Chapter 130A of the General Statutes is
12 amended by adding a new section to read:

13 **"§ 130A-221.5. Diabetes education as part of well-child care.**

14 Each physician, physician assistant, or certified nurse practitioner who provides well-child
15 care is encouraged to educate and discuss the warning signs of Type I diabetes and symptoms
16 with each parent for each child under the care of the physician, physician assistant, or certified
17 nurse practitioner at least once at the following age intervals:

- 18 (1) Birth.
19 (2) Twelve months of age.
20 (3) Twenty-four months of age.
21 (4) Thirty-six months of age.
22 (5) Forty-eight months of age.
23 (6) Sixty months of age."

24 **SECTION 2.** Article 56A of Chapter 58 of the General Statutes is amended by
25 adding a new section to read:

26 **"§ 58-56A-10. Civil penalties for violations; administrative procedure.**

27 (a) Whenever the Commissioner has reason to believe that any person has violated any
28 of the provisions of this Article with such frequency as to indicate a general business practice,
29 the Commissioner may, after notice and opportunity for a hearing, proceed under the
30 appropriate subsections of this section.

31 (b) If, under subsection (a) of this section, the Commissioner finds a violation of this
32 Article, the Commissioner may order the payment of a monetary penalty as provided in
33 subsection (c) of this section or petition the Superior Court of Wake County for an order



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1 directing payment of restitution as provided in subsections (d) and (e) of this section, or both.
2 Each day during which a violation occurs constitutes a separate violation.

3 (c) If the Commissioner orders the payment of a monetary penalty pursuant to
4 subsection (b) of this section, the penalty shall not be less than one hundred dollars (\$100.00)
5 nor more than one thousand dollars (\$1,000) per day per prescription drug for each prescription
6 found to have been improperly reimbursed as a result of the pharmacy benefits manager's
7 failure to comply with G.S. 58-56A-5. In determining the amount of the penalty, the
8 Commissioner shall consider the degree and extent of harm caused by the violation, the amount
9 of money that inured to the benefit of the violator as a result of the violation, whether the
10 violation was committed willfully, and the prior record of the violator in complying or failing
11 to comply with laws, rules, or orders applicable to the violator. The clear proceeds of the
12 penalty shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with
13 G.S. 115C-457.2. Payment of the civil penalty under this section shall be in addition to
14 payment of any other penalty for a violation of the criminal laws of this State.

15 (d) Upon petition of the Commissioner the court may order the person who committed
16 a violation specified in subsection (b) of this section to make restitution in an amount that
17 would make whole any person harmed by the violation. The petition may be made at any time
18 and also in any appeal of the Commissioner's order.

19 (e) Upon petition of the Commissioner the court may order the person who committed a
20 violation specified in subsection (b) of this section to make restitution to the Department for
21 administrative expenses, including expenses under subsection (f) of this section, incurred in the
22 investigation, hearing and any appeals associated with the violation in such amount that would
23 reimburse the agency for the expenses. The petition may be made at any time and also in any
24 appeal of the Commissioner's order.

25 (f) The Commissioner may contract with consultants and other professionals with
26 relevant expertise as necessary and appropriate to conduct investigation, hearing and appeals
27 activities as provided in this section. Such contracts shall not be subject to G.S. 114-2.3,
28 G.S. 147-17, or Articles 3, 3C and 8 of Chapter 143 of the General Statutes, together with rules
29 and procedures adopted under those Articles concerning procurement, contracting, and contract
30 review.

31 (g) Nothing in this section prevents the Commissioner from negotiating a mutually
32 acceptable agreement with any person as to any civil penalty or restitution.

33 (h) Unless otherwise specifically provided for, all administrative proceedings under this
34 Article are governed by Chapter 150B of the General Statutes. Appeals of the Commissioner's
35 orders under this section shall be governed by G.S. 58-2-75."

36 **SECTION 3.** G.S. 131E-13 is amended by adding a new subsection to read:

37 "(h) A municipality or hospital authority that has complied with the requirements of
38 subsection (d)(1)-(6) of this section but has not, following good faith negotiations, approved
39 any lease, sale, or conveyance as required by subsections (d)(7)-(8) of this section may, not less
40 than 120 days following the public hearing required by subsection (d)(5) of this section, solicit
41 additional prospective lessees or buyers not previously solicited as required by subsection
42 (d)(2) of this section and may approve any lease, sale, or conveyance without the necessity to
43 repeat compliance with the requirements of subsection (d)(1)-(6) of this section, except for the
44 following:

45 (1) Before considering any proposal to lease or purchase the hospital facility or
46 part thereof, the municipality or hospital authority shall require information
47 on charges, services, and indigent care at similar facilities leased, owned or
48 operated by the proposed lessee or buyer.

49 (2) The municipality or hospital authority shall declare its intent to approve any
50 lease or sale in the manner authorized by this subsection at a regular or



1 special meeting held on 10 days' public notice. Such notice shall state that
2 copies of the lease, sale, or conveyance proposed for approval will be
3 available 10 days prior to the regular or special meeting required by
4 subdivision (3) of this subsection, and that the lease, sale, or conveyance
5 shall be considered for approval at a regular or special meeting not less than
6 10 days following the regular or special meeting required by this subsection.
7 Notice shall be given by publication in one or more papers of general
8 circulation in the affected area describing the intent to lease, sell, or convey
9 the hospital facility involved and the potential buyer or lessee.

10 (3) Not less than 10 days following the regular or special meeting required by
11 subdivision (2) of this subsection, the municipality or hospital authority shall
12 approve any lease, sale, or conveyance by a resolution at a regular or special
13 meeting.

14 (4) At least 10 days before the regular or special meeting at which any lease,
15 sale, or conveyance is approved, the municipality or hospital authority shall
16 make copies of the proposed contract available to the public."

17 **SECTION 4(a).** G.S. 131E-76 is amended by adding a new subdivision to read:

18 "(1c) "Existing hospital" means a hospital that currently or within the last 24 months
19 meets all the following conditions:

20 a. Holds or voluntarily surrendered a hospital license issued under
21 G.S. 131E-77.

22 b. Serves or served patients.

23 c. Is or was staffed.

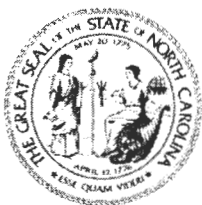
24 d. Has or had appropriate equipment."

25 **SECTION 4(b).** An existing hospital as defined in G.S. 131E-76(1c) as enacted by
26 subsection (a) of this section shall be deemed operational for purposes of Article 5 of Chapter
27 131E and is exempted from certificate of need review under Article 9 of Chapter 131E of the
28 General Statutes if the Division of Health Service Regulation receives written notice from any
29 operator that the hospital will be opening within 36 months of the notice.

30 **SECTION 5.** Article 1E of Chapter 90 of the General Statutes, and Article 9A of
31 Chapter 131E of the General Statutes are repealed.

32 **SECTION 6.** Section 1 of this act becomes effective October 1, 2015. Section 2 of
33 this act becomes effective July 1, 2016. Section 5 of this act becomes effective January 1,
34 2017. The remainder of this act is effective when this act becomes law.





HOUSE BILL 20: Rural Access to Health Care Act

2015-2016 General Assembly

Committee: Rules and Operations of the Senate
Introduced by: Rep. C. Graham
Analysis of: PCS to Fourth Edition
H20-CSTY-6

Date: September 16, 2015
Prepared by: Jan Paul
Augustus Willis
Committee Counsel

SUMMARY: *The Proposed Committee Substitute (PCS) for House Bill 20 would require parent education during well-child visits at specific age intervals regarding Type I Diabetes; amend the law pertaining to Pharmacy Benefits Managers (PBMs); make various changes in hospital licensure and certificate of need (CON) laws; and repeal laws governing the Certificate of Public Advantage (COPA).*

[As introduced, this bill was identical to S27, as introduced by Sen. Smith, which is currently in Senate Health Care.]

CURRENT LAW and BILL ANALYSIS:

Section 1 of the PCS would create a new G.S. 130A-221.5, "Diabetes education as part of well-child care," to encourage physicians, physician's assistants, or certified nurse practitioners who provide well-child care to educate and discuss the warning signs and symptoms of Type I diabetes with the parents of each child under their care at birth, and at yearly intervals until the child reaches the age of five.

Section 2: Currently, Pharmacy Benefits Managers (PBMs) process prescriptions for groups that pay for drugs, e.g., insurance companies or corporations, by acting as an intermediary between the payor and other members of the health system. Under Article 56A of Chapter 58, PBMs may place a particular drug on a "Maximum Allowable Cost" (MAC) price list, provided the drug meets certain criteria. Once a PBM places a drug on a MAC list, it is required to conduct a review of the MAC prices for potential removal or modification at least once every seven business days and, if necessary, modify the MAC price of the drug or remove it from the MAC price list within seven business days of the review.

Section 2 of the PCS would create a new G.S. 58-56A-10 to give the Commissioner of Insurance ("Commissioner") enforcement authority over PBMs. The Commissioner of Insurance could impose monetary penalties as described in the statute and/or petition the Superior Court of Wake County for an order directing restitution from PBMs who violate the statute. The Commissioner would have discretion to determine the amount of monetary penalty in an amount of between \$100 and \$1,000 per day per prescription drug, for each prescription found to be improperly reimbursed as a result of the PBM's failure to comply with the requirements of G.S. 58-56A-5 pertaining to Maximum Allowable Cost.

Section 3: Under current law, before a municipality or hospital authority may lease, sell, or convey any hospital facility, it must comply with the procedures set forth in G.S. 131E-13(d), including giving notice of its intent, soliciting additional buyers or lessees, holding public hearings, and approving any sale or lease at a regular meeting by resolution.

Section 3 of the PCS would allow a municipality or hospital authority that has otherwise complied with the requirements of G.S. 131E-13(d)(1)-(6), but has not, following good faith negotiations, approved a lease, sale or conveyance in accordance with (d)(7)-(8) to solicit additional prospective lessees or buyers

O. Walker Reagan
Director



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House Bill 20

Page 2

that were not previously solicited as required by (d)(2) and then approve the lease, sale, or conveyance without the necessity to repeat compliance of (d)(1)-(6), except that the municipality or hospital authority must:

- Prior to considering any proposal, require information on charges, services, and indigent care at similar facilities leased, owned or operated by the proposed lessee or buyer
- Declare its intent to approve any lease or sale at a regular or special meeting held on 10 days public notice
- Approve any lease, sale, or conveyance by a resolution at a regular or special meeting held not less than 10 days following the regular or special meeting at which it declared its intent to approve the sale or lease
- Make available to the public copies of the proposed contract at least 10 days prior to the regular or special meeting at which any lease, sale, or conveyance is approved.

Section 4 of the PCS would amend certain provisions of Chapter 131E of the General Statutes, *"Health Care Facilities."*

Article 5 of Chapter 131E establishes the State's hospital licensing requirements. Article 9 of Chapter 131E governs the issuance of Certificates of Need (CON). The CON law* provides the process by which persons may apply for a license to construct or expand health care facilities or to provide services in accordance with the determined need. The State's CON law provides, "No person shall offer or develop a new institutional health service is required without first obtaining a certificate of need from the Department of Health and Human Services ("Department"). G.S. 131E-178.

Section 4(a) of the PCS for House Bill 20 would create a definition of "existing hospital" in the Hospital Licensure Act. An "existing hospital" would be a hospital that currently or within the last 24 months meets all of the following conditions:

- Holds or voluntarily surrendered a hospital license under G.S. 131E-77.
- Serves or served patients.
- Is or was staffed.
- Has or had appropriate equipment.

Section 4(b) would provide that an "existing hospital" is deemed operational for purposes of licensure and is exempted from CON review under Article 9 of Chapter 131E if the Department's Division of Health Service Regulation receives written notice from any operator that the hospital will be opening within 36 months of the notice.

Section 5: Article 1E of Chapter 90 and Article 9A of Chapter 131E govern the Certificate of Public Advantage (COPA). The issuance of a COPA* allows hospitals and other persons to enter into cooperative agreements for the provision of health care that would otherwise be subject to antitrust scrutiny and possible liability. The COPA spells out conditions of operation imposed upon the parties to the agreement.

Section 5 of the PCS would end the COPA by repealing Article 1E of Chapter 90 and Article 9A of Chapter 131E.



House Bill 20

Page 3

EFFECTIVE DATE: Section 1 becomes effective October 1, 2015. Section 2 becomes effective July 1, 2016. Section 5 of this act becomes effective January 1, 2017. The remainder of this act is effective when this act becomes law.

*For further background and information on the State's CON and COPA laws, see the following reports:

- [http://www.ncleg.net/documentsites/committees/HSCCONPRHI/04-19-12/HSCCON final report 4-23.pdf](http://www.ncleg.net/documentsites/committees/HSCCONPRHI/04-19-12/HSCCON%20final%20report%204-23.pdf)
- <http://ncleg.net/Library/studies/2013/st11925.pdf>.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 20

H20-ATD-106 [v.3]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 1

Amends Title [NO]
PCS to Fourth Edition

Date _____, 2015

Senator Tillman Wade

1 moves to amend the bill on page 1, line 27, by deleting the term "any person" and substituting
2 the term "a pharmacy benefits manager";

3
4 and on page 2, line 15, by deleting the term "person" and substituting the term "pharmacy
5 benefits manager";

6
7 and on page 2, line 17, by deleting the term "person" and substituting the term "pharmacist";

8
9 and on page 2, line 19, by deleting the term "person" and substituting the term "pharmacy
10 benefits manager";

11
12 and on page 2, line 32, by deleting the term "person" and substituting the term "pharmacy
13 benefits manager".
14
15

SIGNED _____

Amendment Sponsor

SIGNED _____

Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED _____

TABLED _____



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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

1

HOUSE BILL 503

Short Title: Allow Moore Co. Commissioners to Redistrict. (Local)

Sponsors: Representatives Boles and McNeill (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Local Government, if favorable, Elections.

April 2, 2015

A BILL TO BE ENTITLED
AN ACT TO ALLOW THE MOORE COUNTY BOARD OF COMMISSIONERS TO
REDISTRICT THEIR RESIDENCY DISTRICTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-22.1, as enacted by Chapter 215 of the 1995 Session Laws, and as rewritten by S.L. 1998-175 and S.L. 2011-126, is amended by adding a new subsection to read:

"§ 153A-22.1. Redefining residency district boundaries.

...

(b1) If a county is divided into residency districts, the board of county commissioners may find as a fact whether the residency districts negatively impact compactness, contiguity, or respect for political subdivisions or communities of interest among the districts. If the board finds there is substantial negative impact among the districts, it may, by resolution, redefine the residency districts to address the identified negative impact.

...."

SECTION 2. This act applies to Moore County only.

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



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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

D

HOUSE BILL 503
PROPOSED COMMITTEE SUBSTITUTE H503-CSTH-36 [v.5]

9/15/2015 1:45:56 PM

Short Title: Moore Co. Comm. and Bd. of Ed. Changes.

(Local)

Sponsors:

Referred to:

April 2, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW THE MOORE COUNTY BOARD OF COMMISSIONERS TO
3 REDISTRICT THEIR RESIDENCY DISTRICTS AND TO REDUCE THE SIZE OF THE
4 MOORE COUNTY BOARD OF EDUCATION FROM EIGHT MEMBERS TO SEVEN.
5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 153A-22.1, as enacted by Chapter 215 of the 1995 Session
7 Laws, and as rewritten by S.L. 1998-175 and S.L. 2011-126, is amended by adding a new
8 subsection to read:

9 "§ 153A-22.1. Redefining residency district boundaries.

10 ...
11 (b1) If a county is divided into residency districts, the board of county commissioners
12 may find as a fact whether the residency districts negatively impact compactness, contiguity, or
13 respect for political subdivisions or communities of interest among the districts. If the board
14 finds there is substantial negative impact among the districts, it may, by resolution, redefine the
15 residency districts to address the identified negative impact.

16"
17 SECTION 2.(a) Notwithstanding Chapter 389 of the 1997 Session Laws, effective
18 the first Monday in December 2016, the Board of Education of Moore County shall consist of
19 seven members.

20 SECTION 2.(b) One member of the Moore County Board of Education shall be
21 elected each from Electoral Districts 1, 2, 3, 4, and 5 for members of the Moore County Board
22 of Commissioners as those districts existed on January 1, 1997, and two members of the Moore
23 County Board of Education shall be elected from the county at large.

24 SECTION 2.(c) In 2016 and quadrennially thereafter, members shall be elected
25 from Districts 1, 2, 4, and 5 for four-year terms. In 2018 and quadrennially thereafter, a
26 member shall be elected from District 3 and two members shall be elected from the county at
27 large for four-year terms.

28 SECTION 2.(d) Members shall reside in and represent the districts, but all
29 members are elected by the voters of the county at large by the nonpartisan primary and
30 election method, all as previously provided by law. Vacancies on the Moore County Board of
31 Education shall be filled in accordance with G.S. 115C-37(f).

32 SECTION 3. In order to implement the changes to the size of the Moore County
33 Board of Education, as required by Section 2 of this act, one member at large shall be elected in
34 2016 to fill the unexpired term on the Board pursuant to G.S. 115C-37(f).

35 SECTION 4. This act applies to Moore County only.





1 **SECTION 5.** This act is effective when it becomes law and applies to elections
2 held in 2016 and thereafter.





HOUSE BILL 503: Moore Co. Comm. and Bd. of Ed. Changes

2015-2016 General Assembly

Committee: Rules and Operations of the Senate
Introduced by: Reps. Boles, McNeill
Analysis of: PCS to First Edition
H503-CSTH-36

Date: September 16, 2015
Prepared by: Kelly Tornow
Staff Attorney

SUMMARY: *The PCS for House Bill 503 applies to Moore County only, and would (i) allow the Moore County Board of Commissioners to redistrict their residency districts, and (ii) reduce the size of the Moore County Board of Education from eight members to seven.*

CURRENT LAW:

Section 1

The Moore County Board of Commissioners is composed of five members who serve staggered four-year terms. Members are elected from residency districts, meaning that each member resides in and represents a district but is elected at-large.

If a county is divided into *electoral districts*, G.S. 153A-23 allows the board of county commissioners to redefine the electoral districts if the board finds that there is substantial inequality of population among the districts. However, once *residency district* boundaries are established, boards of county commissioners are not authorized by statute to redefine those districts. Any redrawing of residency district boundaries for county commissioner districts requires local act by the General Assembly.

Sections 2 and 3

Currently, the Moore County Board of Education is composed of eight members who serve staggered four-year terms. Five members are elected from residency districts, and three members are elected at-large. Members are elected by the nonpartisan primary and election method and take office on the first Monday in December of even-numbered years.

BILL ANALYSIS:

Section 1

Section 1 would allow the Moore County Board of Commissioners to redefine the residency districts by resolution if the board finds that the current districts negatively impact compactness, contiguity, or respect for political subdivisions or communities of interest.

Sections 2 and 3

Effective the first Monday in December 2016, Section 2 of the bill would reduce the size of the Moore County Board of Commissioners from eight members to seven by reducing the number of at-large members from three to two. Section 3 would provide that one member will be elected at-large in 2016 to fill a vacant seat on the Board for the remainder of the unexpired term.

EFFECTIVE DATE: This act is effective when it becomes law and applies to elections held in 2016 and thereafter.

O. Walker Reagan
Director



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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

1

HOUSE BILL 361

Short Title: Principle-Based Reserving.

(Public)

Sponsors: Representatives Collins, Tine, and Setzer (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Insurance.

March 26, 2015

A BILL TO BE ENTITLED
AN ACT TO PROVIDE FOR PRINCIPLE-BASED VALUATION IN THE LIFE
INSURANCE STANDARD VALUATION LAW AND STANDARD NONFORFEITURE
PROVISIONS IN THE NORTH CAROLINA INSURANCE LAW.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-58-50 reads as rewritten:

"§ 58-58-50. Standard Valuation Law.

(a) This section shall be known as the Standard Valuation Law.

(a1) As used in this section:

(1) Appointed actuary. – A qualified actuary who is appointed in accordance with the valuation manual to prepare the actuarial opinion required in subsection (j1) of this section.

(2) Company. – An entity which has written, issued or reinsured life insurance contracts, accident and health insurance contracts, annuity contracts, pure endowment contracts or deposit type contracts (i) in this State and has at least one such policy in force or on claim, or (ii) in any state and is required to hold a certificate of authority to write life insurance, accident and health insurance, annuity contract, pure endowment or deposit-type contracts in this State.

(3) Deposit-type contract. – A contract that does not incorporate mortality or morbidity risks and as may be specified in the valuation manual.

(4) Policyholder behavior. – Any action a policyholder, contract holder, or any other person with the right to elect options, such as a certificate holder, may take under a policy or contract subject to this section, including, but not limited to, lapse, withdrawal, transfer, deposit, premium payment, loan, annuitization, or benefit elections prescribed by the policy or contract but excluding events of mortality or morbidity that result in benefits prescribed in their essential aspects by the terms of the policy or contract.

(5) Principle-based valuation. – A reserve valuation that uses one or more methods or one or more assumptions determined by the insurer and is required to comply with subsection (n) of this section as specified in the valuation manual.

(6) Qualified actuary. – An individual who is qualified to sign the applicable statement of actuarial opinion in accordance with the American Academy of



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Actuaries qualification standards for actuaries signing such statements and who meets the requirements specified in the valuation manual.

(7) Reserves. – Reserve liabilities.

(8) Tail risk. – A risk that occurs either where the frequency of low probability events is higher than expected under a normal probability distribution or where there are observed events of very significant size or magnitude.

(9) Valuation manual. – The manual of valuation instructions adopted by the NAIC as specified in this section or as subsequently amended.

(b) This subsection applies to policies and contracts issued prior to the operative date of the valuation manual. Each year the Commissioner shall value or cause to be valued the reserve liabilities ("reserves") reserves for all outstanding life insurance policies, annuity contracts, and pure endowment contracts contracts, accident and health insurance contracts, and deposit-type contracts of every life insurance company doing business in this State. In the case of an alien company, the valuation shall be limited to its United States business. The Commissioner may certify the amount of each company's reserves, specifying the mortality or morbidity tables, withdrawal rates, and other assumptions regarding when, and the degree to which, policyholders exercise contract options, such as full or partial withdrawal, rate or rates of interest, and methods, such as net level premium method or other, used in the Commissioner's calculation of the company's reserves. Group methods and approximate averages for fractions of a year or otherwise may be used by the Commissioner in calculating the company's reserves, and the Commissioner may accept the valuation made by the company upon evidence of its correctness that the Commissioner requires. For foreign or alien insurance companies, the Commissioner may accept any valuation made or caused to be made by the insurance regulator of any state or other jurisdiction if (i) that valuation complies with the minimum standard provided in this section and (ii) that regulator accepts as legally sufficient and valid the Commissioner's certificate of valuation when that certificate states that the valuation has been made in a specified manner according to which the aggregate reserves would be at least as great as if they had been computed in the manner prescribed by the law of that state or jurisdiction section.

(b1) The provisions set forth in subsections (c), (d), (d1), (e), (f), (g), (h), and (k) of this section shall apply to all policies and contracts, as appropriate, subject to this section issued on or after the effective date of this section and prior to the operative date of the valuation manual. The provisions set forth in subsections (m) and (n) of this section shall not apply to policies issued prior to the operative date of the valuation manual.

(b2) This subsection applies to policies and contracts issued on or after the operative date of the valuation manual. The Commissioner shall annually value, or cause to be valued, the reserves for all outstanding life insurance contracts, annuity contracts, pure endowment contracts, accident and health insurance contracts, and deposit-type contracts of every company issued on or after the operative date of the valuation manual. In lieu of the valuation of the reserves required of a foreign or alien company, the Commissioner may accept a valuation made, or caused to be made, by the insurance supervisory official of any State or other jurisdiction when that valuation complies with the minimum standard provided in this section.

(b3) The provisions set forth in subsections (m) and (n) of this section shall apply to all policies and contracts issued on or after the operative date of the valuation manual.

(c) (1) Except as otherwise provided in subdivisions (3) and (4) of this subsection, or in subsection (k), the minimum standard for the valuation of all such policies and contracts issued before the effective date of this section shall be that provided by the laws in effect immediately before that date, except that the minimum standard for the valuation of annuities and pure endowments purchased under group annuity and pure endowment contracts issued before that date shall be that provided by the laws in effect immediately before that

date but replacing the interest rates specified in such laws by an interest rate of five percent (5%) per annum, and five and one-half percent (5 ½%) interest for single premium life insurance policies.

- (2) Except as otherwise provided in subdivisions (3) and (4) of this subsection, or in subsection (k). the minimum standards for the valuation of all such policies and contracts issued on or after the effective date of this section shall be the Commissioner's reserve valuation methods defined in subsections (d), ~~(d-1)(d1)~~, ~~and (g)~~, and (k), five percent (5%) interest for group annuity and pure endowment contracts and three and one-half percent (3 ½%) interest for all other policies and contracts, or, in the case of policies and contracts other than annuity and pure endowment contracts, issued on or after July 1, 1975, four percent (4%) interest for such policies issued prior to April 19, 1979, and four and one-half percent (4 ½%) interest for such policies issued on or after April 19, 1979, and the following tables:

- (3) Except as provided in subdivision (4) of this subsection, the minimum standard ~~for the~~ of valuation ~~of all~~ for individual annuity and pure endowment contracts issued on or after the operative date of this subdivision (3), as defined herein, and for ~~all~~ annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts, shall be the Commissioner's reserve valuation methods defined in subsections (d) and ~~(d-1)(d1)~~ and the following tables and interest rates:

...
After July 1, 1975, any company may file with the Commissioner a written notice of its election to comply with the provisions of this subdivision (3) after a specified date before January 1, 1979, which shall be the operative date of this subdivision for such company, provided, a company may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If a company makes no such election, the operative date of this subdivision for such company shall be January 1, 1979.

- (4) a. ~~This Subdivision~~ this subdivision. The interest rates used in determining the minimum standard for the valuation of:
1. ~~All life~~ Life insurance policies issued in a particular calendar year, on or after the operative date of subdivision (e)(4) of G.S. 58-58-55,
 2. ~~All individual~~ Individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1982,
 3. ~~All annuities~~ Annuities and pure endowments purchased in a particular calendar year on or after January 1, 1982, under group annuity and pure endowment contracts, and
 4. The net increase, if any, in a particular calendar year after January 1, 1982, in amounts held under guaranteed interest contracts
- shall be the calendar year statutory valuation interest rates as defined in this subdivision.

- ...
(d) Except as otherwise provided in subsections ~~(d-1) and (d1)~~, (g), and (k) reserves according to the Commissioner's reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the

1 payment of uniform premiums, shall be the excess, if any, of the present value, at the date of
2 valuation, of such future guaranteed benefits provided for by such policies, over the then
3 present value of any future modified net premiums therefor. The modified net premiums for
4 any such policy shall be such uniform percentage of the respective contract premiums for such
5 benefits that the present value, at the date of issue of the policy, of all such modified net
6 premiums shall be equal to the sum of the then present value of such benefits provided for by
7 the policy and the excess of (1) and (2), as follows:

- 8 (1) A net level annual premium equal to the present value, at the date of issue,
9 of such benefits provided for after the first policy year, divided by the
10 present value, at the date of issue, of an annuity of one per annum payable
11 on the first and each subsequent anniversary of such policy on which a
12 premium falls due; provided, however, that such net level annual premium
13 shall not exceed the net level annual premium on the 19-year premium
14 whole life plan for insurance of the same amount at an age one year higher
15 than the age at issue of such policy.
- 16 (2) A net one year term premium for such benefits provided for in the first
17 policy year.

18 Provided that for any life insurance policy issued on or after January 1, 1985, for which the
19 contract premium in the first policy year exceeds that of the second year and for which no
20 comparable additional benefits are provided in the first year for such excess and which provides
21 an endowment benefit or a cash surrender value of a combination thereof in an amount greater
22 than such excess premium, the reserve according to the Commissioner's reserve valuation
23 method as of any policy anniversary occurring on or before the assumed ending date defined
24 herein as the first policy anniversary on which the sum of any endowment benefit and any cash
25 surrender value then available is greater than such excess premium shall, except as otherwise
26 provided in subsection (g), be the greater of the reserve as of such policy anniversary calculated
27 as described in the first paragraph of this subsection and the reserve as of such policy
28 anniversary calculated as described in that paragraph, but with (i) the value defined in
29 subparagraph (1) of that paragraph being reduced by fifteen percent (15%) of the amount of
30 such excess first year premium, (ii) all present values of benefits and premiums being
31 determined without reference to premiums or benefits provided for by the policy after the
32 assumed ending date, (iii) the policy being assumed to mature on such date as an endowment,
33 and (iv) the cash surrender value provided on such date being considered as an endowment
34 benefit. In making the above comparison the mortality and interest bases stated in subdivisions
35 (2) and (4) of subsection (c) shall be used.

36 Reserves according to the Commissioner's reserve valuation method for: (i) life insurance
37 policies providing for a varying amount of insurance or requiring the payment of varying
38 premiums; (ii) group annuity and pure endowment contracts purchased under a retirement plan
39 or plan of deferred compensation, established or maintained by an employer (including a
40 partnership or sole proprietorship) or by an employee organization, or by both, other than a
41 plan providing individual retirement accounts or individual retirement annuities under section
42 408 of the Internal Revenue Code, as now or hereafter amended; (iii) disability and accidental
43 death benefits in all policies and contracts; and (iv) all other benefits, except life insurance and
44 endowment benefits in life insurance policies and benefits provided by all other annuity and
45 pure endowment contracts, shall be calculated by a method consistent with the principles of this
46 subsection except that any extra premiums charged because of impairments or special hazards
47 shall be disregarded in the determination of modified net premiums.

48 ~~(d-1)~~(d1) This subsection shall apply to all annuity and pure endowment contracts other
49 than group annuity and pure endowment contracts purchased under a retirement plan or plan of
50 deferred compensation, established or maintained by an employer (including a partnership or
51 sole proprietorship) or by an employee organization, or by both, other than a plan providing

individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended.

Reserves according to the Commissioner's annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of such contract, that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values.

(e) In no event shall a company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after the effective date of this section, be less than the aggregate reserves calculated in accordance with the methods set forth in subsections (d), ~~(d-1)~~, (d1), (g) and (h) of this section and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies. In no event shall the aggregate reserves for all policies, contracts, and benefits be less than the aggregate reserves determined by the ~~qualified~~ appointed actuary to be necessary to render the opinion required by subsection (i) or subsection (j1) of this section.

(f) Reserves for all policies and contracts issued before the effective date of this section may be calculated, at the option of the company, according to any standards that produce greater aggregate reserves for those policies and contracts than the minimum reserves required by the laws in effect immediately before that date.

Reserves for any category of policies, contracts or benefits as established by the Commissioner, issued on or after the effective date of this section may be calculated, at the option of the company, according to any standards that produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be ~~higher~~ greater than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided ~~for therein in the policies or contracts.~~

Any such company that adopts any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the Commissioner, adopt any lower standard of valuation, but not lower than the minimum ~~herein provided.~~ provided in this section. Provided, however, that for the purposes of this section, the holding of additional reserves previously determined by a ~~qualified~~ the appointed actuary to be necessary to render the opinion required by subsection ~~(e)~~ (i) or (j1) of this section shall not be deemed to be the adoption of a higher standard of valuation.

(g) If in any contract year the gross premium charged by any ~~life insurance~~ company on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this subsection are those standards stated in subdivisions (1), (2) and (4) of subsection (c).

1 Provided that for any life insurance policy issued on or after January 1, 1985, for which the
2 gross premium in the first policy year exceeds that of the second year and for which no
3 comparable additional benefit is provided in the first year for such excess and which provides
4 an endowment benefit or a cash surrender value or a combination thereof in an amount greater
5 than such excess premium, the foregoing provisions of this subsection ~~(g)~~ shall be applied as if
6 the method actually used in calculating the reserve for such policy were the method described
7 in subsection (d), ignoring the second paragraph of subsection (d). The minimum reserve at
8 each policy anniversary of such a policy shall be the greater of the minimum reserve calculated
9 in accordance with subsection (d), including the second paragraph of that subsection, and the
10 minimum reserve calculated in accordance with this ~~subsection (g)~~ subsection.

11 (h) In the case of any plan of life insurance which provides for future premium
12 determination, the amounts of which are to be determined by the insurance company based on
13 then estimates of future experience, or in the case of any plan of life insurance or annuity which
14 is of such a nature that the minimum reserves cannot be determined by the methods described
15 in subsections (d), ~~(d-1)~~, (d1) and (g), the reserves which are held under any such plan must:

- 16 (1) Be appropriate in relation to the benefits and the pattern of premiums for that
17 plan, and
- 18 (2) Be computed by a method which is consistent with the principles of this
19 Standard Valuation Law, as determined by regulations promulgated by the
20 Commissioner.

21 (i) ~~Every~~ Prior to the operative date of the valuation manual as specified in
22 G.S. 58-58-51, every life insurance company doing business in this State shall annually submit
23 the opinion of a qualified actuary as to whether the reserves and related actuarial items held in
24 support of the policies and contracts specified by the Commissioner by rule are computed
25 appropriately, are based on assumptions that satisfy contractual provisions, are consistent with
26 previously reported amounts, and comply with applicable laws of this State. The Commissioner
27 by rule shall define the specifics of this opinion and add any other items deemed to be
28 necessary to its scope. Every life insurance company, except as exempted by or pursuant to
29 rule, shall also annually include in the opinion required by this subsection, an opinion of the
30 same qualified actuary as to whether the reserves and related actuarial items held in support of
31 the policies and contracts specified by the Commissioner by rule, when considered in light of
32 the assets held by the company with respect to the reserves and related actuarial items,
33 including but not limited to the investment earnings on the assets and the considerations
34 anticipated to be received and retained under the policies and contracts, make adequate
35 provision for the company's obligations under the policies and contracts, including but not
36 limited to the benefits under and expenses associated with the policies and contracts. The
37 Commissioner may provide by rule for a transition period for establishing any higher reserves
38 that the qualified actuary may deem to be necessary in order to render the opinion required by
39 this subsection.

40 (j) Each opinion required by subsection (i) of this section shall be governed by the
41 following provisions:

- 42 ...
- 43 (7) ~~For the purposes of this section, "qualified actuary" means a member in good~~
44 ~~standing of the American Academy of Actuaries who meets the requirement~~
45 ~~set forth in such rules.~~
- 46 ...

47 (j1) On or after the operative date of the valuation manual, every company with
48 outstanding life insurance contracts, annuity contracts, pure endowment contracts, accident and
49 health insurance contracts or deposit-type contracts in this State and subject to regulation by the
50 Commissioner shall annually submit the opinion of the appointed actuary as to whether the
51 reserves and related actuarial items held in support of the policies and contracts are computed

1 appropriately, are based on assumptions that satisfy contractual provisions, are consistent with
2 previously reported amounts, and comply with applicable laws of this State. The valuation
3 manual shall prescribe the specifics of this opinion, including any items deemed to be
4 necessary to its scope. Every company with outstanding life insurance contracts, annuity
5 contracts, pure endowment contracts, accident and health insurance contracts or deposit-type
6 contracts in this State and subject to regulation by the Commissioner, except as exempted in the
7 valuation manual, shall also annually include in the opinion required by this subsection, an
8 opinion of the same appointed actuary as to whether the reserves and related actuarial items
9 held in support of the policies and contracts specified in the valuation manual, when considered
10 in light of the assets held by the company with respect to the reserves and related actuarial
11 items, including, but not limited to, the investment earnings on the assets and the considerations
12 anticipated to be received and retained under the policies and contracts, make adequate
13 provision for the company's obligations under the policies and contracts, including, but not
14 limited to, the benefits under and expenses associated with the policies and contracts.

15 (j2) Each opinion required by subsection (j1) of this section shall be governed by the
16 following provisions:

- 17 (1) A memorandum, in form and substance as specified in the valuation manual
18 and acceptable to the Commissioner, shall be prepared to support each
19 actuarial opinion.
- 20 (2) If the company fails to provide a supporting memorandum at the request of
21 the Commissioner within a period specified in the valuation manual or the
22 Commissioner determines that the supporting memorandum provided by the
23 company fails to meet the standards prescribed by the valuation manual or is
24 otherwise unacceptable to the Commissioner, the Commissioner may engage
25 a qualified actuary at the expense of the company to review the opinion and
26 the basis for the opinion and prepare such supporting memorandum as is
27 required by the Commissioner.
- 28 (3) The opinion shall be in form and substance as specified in the valuation
29 manual and acceptable to the Commissioner.
- 30 (4) The opinion shall be submitted with the annual statement reflecting the
31 valuation of such reserve liabilities for each year ending on or after the
32 operative date of the valuation manual.
- 33 (5) The opinion shall apply to all policies and contracts subject to subsection
34 (j1) of this section plus other actuarial liabilities as specified in the valuation
35 manual.
- 36 (6) The opinion shall be based on standards adopted from time to time by the
37 Actuarial Standards Board or its successor and on such additional standards
38 as may be prescribed in the valuation manual.
- 39 (7) In the case of an opinion required to be submitted by a foreign or alien
40 company, the Commissioner may accept the opinion filed by that company
41 with the insurance supervisory official of another state if the Commissioner
42 determines that the opinion reasonably meets the requirements applicable to
43 a company domiciled in this State.
- 44 (8) Except in cases of fraud or willful misconduct, the appointed actuary shall
45 not be liable for damages to any person (other than the company and the
46 Commissioner) for any act, error, omission, decision, or conduct with
47 respect to the appointed actuary's opinion.
- 48 (9) Disciplinary action by the Commissioner against the company or the
49 appointed actuary shall be defined in rules by the Commissioner.

50 (k) The Commissioner shall adopt rules containing the minimum standards applicable
51 to the valuation of accident and health plans insurance contracts issued prior to the operative

1 date of the valuation manual. The Commissioner may also adopt rules for the purpose of
2 recognizing new annuity mortality tables for use in determining reserve liabilities for annuities
3 and may adopt rules that govern minimum valuation standards for reserves of life insurance
4 companies. In adopting these rules, the Commissioner may consider model laws and
5 regulations promulgated and amended from time to time by the NAIC.

6 (l) The Commissioner may adopt rules for life insurers for the following matters:

- 7 (1) Reserves for contracts issued by insurers.
- 8 (2) Optional smoker-nonsmoker mortality tables permitted for use in
9 determining minimum reserve liabilities and nonforfeiture benefits.
- 10 (3) Optional blended gender mortality tables permitted for use in determining
11 nonforfeiture benefits for individual life policies.
- 12 (4) Optional tables acceptable for use in determining reserves and minimum
13 cash surrender values and amounts of paid-up nonforfeiture benefits.
- 14 (5) Assumptions for policyholder withdrawal rates for use in determining
15 minimum reserve liabilities.

16 In adopting these rules, the Commissioner may consider model laws and regulations
17 promulgated and amended from time to time by the NAIC.

18 (m) The valuation manual shall apply as described in this subsection.

19 (1) For policies issued on or after the operative date of the valuation manual, the
20 standard prescribed in the valuation manual is the minimum standard of
21 valuation required under subsections (b2) and (b3) of this section, except as
22 provided under subdivisions (5) or (7) of this subsection.

23 (2) The operative date of the valuation manual is specified in G.S. 58-58-51(b).

24 (3) Unless a change in the valuation manual specifies a later effective date,
25 changes to the valuation manual shall be effective on January 1 of the year
26 following the date when the change to the valuation manual has been
27 adopted by the NAIC by an affirmative vote representing each of the
28 following:

29 a. At least three-fourths of the members of the NAIC voting, but not
30 less than a majority of the total membership.

31 b. Members of the NAIC representing jurisdictions totaling more than
32 seventy-five percent (75%) of the direct premiums written as
33 reported in the following annual statements most recently available
34 prior to the vote described in this subdivision: life, accident and
35 health annual statements; health annual statements; and fraternal
36 annual statements.

37 (4) The valuation manual must specify all of the following:

38 a. Minimum valuation standards for and definitions of the policies or
39 contracts subject to subsections (b2) and (b3) of this section. Such
40 minimum valuation standards shall be as follows:

41 1. The Commissioner's reserve valuation method for life
42 insurance contracts subject to subsections (b2) and (b3) of
43 this section.

44 2. The Commissioner's annuity reserve valuation method for
45 annuity contracts subject to subsections (b2) and (b3) of this
46 section.

47 3. Minimum reserves for all other policies or contracts subject
48 to subsections (b2) and (b3) of this section.

49 b. The policies or contracts or types of policies or contracts that are
50 subject to the requirements of a principle-based valuation as

- described in subsection (n) of this section and the minimum valuation standards consistent with those requirements.
- c. For policies and contracts subject to a principle-based valuation under subsection (n) of this section, each of the following:
1. Requirements for the format of reports to the Commissioner under sub-subdivision (2)(c) of subsection (n) of this section. Such reports shall include information necessary to determine if the valuation is appropriate and in compliance with this section.
 2. Assumptions shall be prescribed for risks over which the company does not have significant control or influence.
 3. Procedures for corporate governance and oversight of the actuarial function, and a process for appropriate waiver or modification of such procedures.
- d. For policies not subject to a principle-based valuation under subsection (n) of this section, the minimum valuation standard shall either:
1. Be consistent with the minimum standard of valuation prior to the operative date of the valuation manual; or
 2. Develop reserves that quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring.
- e. Other requirements, including, but not limited to, those relating to reserve methods, models for measuring risk, generation of economic scenarios, assumptions, margins, use of company experience, risk measurement, disclosure, certifications, reports, actuarial opinions and memorandums, transition rules and internal controls.
- f. The data and form of the data required under subsection (o) of this section, to whom the data must be submitted, and may specify other requirements, including data analyses and reporting of analyses.
- (5) In the absence of a specific valuation requirement, or if a specific valuation requirement in the valuation manual is not, in the opinion of the Commissioner, in compliance with this section, then the company shall, with respect to such requirements, comply with minimum valuation standards prescribed by the Commissioner by rule.
- (6) The Commissioner may engage a qualified actuary, at the expense of the company, to perform an actuarial examination of the company and opine on the appropriateness of any reserve assumption or method used by the company, or to review and opine on a company's compliance with any requirement set forth in this section. The Commissioner may rely upon the opinion, regarding provisions contained in this section, of a qualified actuary engaged by the insurance regulator of another state, district, or territory of the United States. As used in this subdivision, the term "engage" includes employment and contracting.
- (7) The Commissioner may require a company to change any assumption or method that in the opinion of the Commissioner is necessary in order to comply with the requirements of the valuation manual or this section; and the company shall adjust the reserves as required by the Commissioner. The

- 1 Commissioner may take other disciplinary action as specified in rules
2 adopted by the Commissioner.
- 3 (n) The requirements of this subsection shall apply to any principle-based valuation of
4 policies issued on or after the operative date of the valuation manual.
- 5 (1) A company using a principle-based valuation for one or more policies or
6 contracts subject to this subsection as specified in the valuation manual must
7 establish, for those policies and contracts, reserves that meet all of the
8 following:
- 9 a. Quantify the benefits and guarantees, and the funding, associated
10 with the contracts and their risks at a level of conservatism that
11 reflects conditions that include unfavorable events that have a
12 reasonable probability of occurring during the lifetime of the
13 contracts. For policies or contracts with significant tail risk, the
14 reserves shall reflect conditions appropriately adverse to quantify the
15 tail risk.
- 16 b. Incorporate assumptions, risk analysis methods and financial models
17 and management techniques that are consistent with, but not
18 necessarily identical to, those utilized within the company's overall
19 risk assessment process, while recognizing potential differences in
20 financial reporting structures and any prescribed assumptions or
21 methods.
- 22 c. Incorporate assumptions that are derived in one of the following
23 manners:
- 24 1. The assumption is prescribed in the valuation manual.
25 2. For assumptions that are not prescribed, the assumptions shall
26 (i) be established utilizing the company's available
27 experience, to the extent it is relevant and statistically
28 credible; or (ii) to the extent that company data is not
29 available, relevant, or statistically credible, be established
30 utilizing other relevant, statistically credible experience.
- 31 d. Provide margins for uncertainty, including adverse deviation and
32 estimation error, such that the greater the uncertainty, the larger the
33 margin and resulting reserve.
- 34 (2) A company using a principle-based valuation for one or more policies or
35 contracts subject to this subsection as specified in the valuation manual shall
36 do the following:
- 37 a. Establish procedures for corporate governance and oversight of the
38 actuarial valuation function consistent with those described in the
39 valuation manual.
- 40 b. Provide to the Commissioner and the board of directors an annual
41 certification of the effectiveness of the internal controls with respect
42 to the principle-based valuation. Such controls shall be designed to
43 assure that all material risks inherent in the liabilities and associated
44 assets subject to such valuation are included in the valuation, and that
45 valuations are made in accordance with the valuation manual. The
46 certification shall be based on the controls in place as of the end of
47 the preceding calendar year.
- 48 c. Develop, and file with the Commissioner upon request, a
49 principle-based valuation report that complies with standards
50 prescribed in the valuation manual.

1 (o) A company shall submit mortality, morbidity, policyholder behavior, or expense
2 experience and other data as prescribed in the valuation manual.

3 (p) The confidentiality of documents, materials, and other information provided to the
4 Commissioner under this section shall be maintained as described in this subsection.

5 (1) For purposes of this subsection, "confidential information" shall include all
6 of the following:

7 a. A memorandum in support of an opinion submitted under
8 subsections (i) or (j1) of this section and any other documents,
9 materials, and other information, including, but not limited to, all
10 working papers, and copies thereof, created, produced, or obtained
11 by or disclosed to the Commissioner or any other person in
12 connection with such memorandum.

13 b. All documents, materials, and other information, including, but not
14 limited to, all working papers and copies thereof, created, produced
15 or obtained by or disclosed to the Commissioner or any other person
16 in the course of an examination made under subdivision (6) of
17 subsection (m) of this section; provided, however, that if an
18 examination report or other material prepared in connection with an
19 examination made under the Examination Law (G.S. 58-2-131
20 through G.S. 58-2-134) is not held as private and confidential
21 information under the Examination Law, an examination report or
22 other material prepared in connection with an examination made
23 under subdivision (6) of subsection (m) of this section shall not be
24 "confidential information" to the same extent as if such examination
25 report or other material had been prepared under the Examination
26 Law.

27 c. Any reports, documents, materials and other information developed
28 by a company in support of, or in connection with, an annual
29 certification by the company under sub-subdivision (2)b. of
30 subsection (n) of this section evaluating the effectiveness of the
31 company's internal controls with respect to a principle-based
32 valuation and any other documents, materials and other information,
33 including, but not limited to, all working papers, and copies thereof,
34 created, produced or obtained by or disclosed to the Commissioner or
35 any other person in connection with such reports, documents,
36 materials and other information.

37 d. Any principle-based valuation report developed under
38 sub-subdivision (2)c. of subsection (n) of this section and any other
39 documents, materials and other information, including, but not
40 limited to, all working papers, and copies thereof, created, produced,
41 or obtained by or disclosed to the Commissioner or any other person
42 in connection with such report.

43 e. Any documents, materials, data and other information submitted by a
44 company under subsection (o) of this section (collectively,
45 "experience data") and any other documents, materials, data and
46 other information, including, but not limited to, all working papers,
47 and copies thereof, created or produced in connection with such
48 experience data, in each case that includes any potentially
49 company-identifying or personally identifiable information, that is
50 provided to or obtained by the Commissioner (together with any
51 "experience data," the "experience materials") and any other

documents, materials, data and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the Commissioner or any other person in connection with such experience materials.

(2) Except as provided in this subsection, a company's confidential information is confidential by law and privileged, shall not be subject to or considered public record under G.S. 58-2-100 or Chapter 132 of the General Statutes, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the Commissioner is authorized to use the confidential information in the furtherance of any regulatory or legal action brought as a part of the Commissioner's official duties.

(3) Neither the Commissioner nor any person who received confidential information while acting under the authority of the Commissioner shall be permitted or required to testify in any private civil action concerning any confidential information.

(4) In order to assist in the performance of the Commissioner's duties, the Commissioner may share confidential information (i) with other state, federal, and international regulatory agencies and with the NAIC and its affiliates and subsidiaries and (ii) in the case of confidential information specified in sub-subdivisions (1)a. and (1)d. of this subsection only, with the Actuarial Board for Counseling and Discipline or its successor upon request stating that the confidential information is required for the purpose of professional disciplinary proceedings and with state, federal, and international law enforcement officials; in the case of (i) and (ii), provided that such recipient agrees, and has the legal authority to agree, to maintain the confidentiality and privileged status of such documents, materials, data and other information in the same manner and to the same extent as required for the Commissioner.

(5) The Commissioner may receive documents, materials, data and other information, including otherwise confidential and privileged documents, materials, data or information, from the NAIC and its affiliates and subsidiaries, from regulatory or law enforcement officials of other foreign or domestic jurisdictions and from the Actuarial Board for Counseling and Discipline or its successor and shall maintain as confidential or privileged any document, material, data or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or other information.

(6) The Commissioner may enter into agreements governing the sharing and use of information consistent with this subsection.

(7) No waiver of any applicable privilege or claim of confidentiality in the confidential information shall occur as a result of disclosure to the Commissioner under this subsection or as a result of sharing as authorized in subdivision (4) of this subsection.

(8) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this subsection shall be available and enforced in any proceeding in, and in any court of, this State.

(9) In this subsection, "regulatory agency," "law enforcement agency" and the "NAIC" include, but are not limited to, their employees, agents, consultants, and contractors.

(10) Notwithstanding subdivisions (2) through (9) of this subsection, confidential information specified in sub-subdivisions (1)a. and (1)d. of this subsection may be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the related memorandum in support of an opinion submitted under subsection (i) or (j1) of this section or principle-based valuation report developed under sub-subdivision (2)c. of subsection (n) of this section by reason of an action required by this section or by rules promulgated by the Commissioner. Such confidential information may otherwise be released by the Commissioner with the written consent of the company. Once any portion of a memorandum in support of an opinion submitted under subsection (i) or (j1) of this section or a principle-based valuation report developed under sub-subdivision (2)c. of subsection (n) of this section is cited by the company in its marketing or is publicly volunteered to or before a governmental agency other than a state insurance department or is released by the company to the news media, all portions of such memorandum or report shall no longer be confidential.

(q) The Commissioner may exempt specific product forms or product lines of a domestic company that is licensed and doing business only in this State from the requirements of subsection (m) of this section provided (i) the Commissioner has issued an exemption in writing to the company and has not subsequently revoked the exemption in writing; and (ii) the company computes reserves using assumptions and methods used prior to the operative date of the valuation manual in addition to any requirements established by the Commissioner by rule. For any company granted an exemption under this subsection, the following subsections of this section shall be applicable: (c), (d), (d1), (e), (f), (g), (h), (i), (j), (j1), (j2) and (k), excluding any references to subsection (m) found therein.

(r) The Department shall have full authority to enter into contracts or other agreements with the National Association of Insurance Commissioners, or any other state, entity, or person to fulfill the requirements of this section. Such contracts shall not be subject to Articles 3, 3C, and 8 of Chapter 143 of the General Statutes, or any rules and procedures adopted under those Articles concerning procurement, contracting, and contract review."

SECTION 2. G.S. 58-58-55 reads as rewritten:

"§ 58-58-55. Standard nonforfeiture provisions.

...

(e) (1) This subdivision (1) of subsection (e) shall not apply to policies issued on or after the operative date of subdivision (4) of subsection (e) as defined therein. Except as provided in the third paragraph of this subdivision, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding any extra premiums charged because of impairments or special hazards, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of (i) the then present value of the future guaranteed benefits provided for by the policy; (ii) two percent (2%) of the amount of insurance, if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy; (iii) forty percent (40%) of the adjusted premium for the first policy year; (iv) twenty-five percent (25%) of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or

1 equivalent uniform amount with uniform premiums for the whole of life
2 issued at the same age for the same amount of insurance, whichever is less.
3 Provided, however, that in applying the percentages specified in (iii) and (iv)
4 above, no adjusted premium shall be deemed to exceed four percent (4%) of
5 the amount of insurance or uniform amount equivalent thereto. The date of
6 issue of a policy for the purpose of this subsection shall be the date as of
7 which the rated age of the insured is determined.

8 In the case of a policy providing an amount of insurance varying with
9 duration of the policy, the equivalent uniform amount thereof for the purpose
10 of this section shall be deemed to be the uniform amount of insurance
11 provided by an otherwise similar policy containing the same endowment
12 benefit or benefits, if any, issued at the same age and for the same term, the
13 amount of which does not vary with duration and the benefits under which
14 have the same present value at the date of issue as the benefits under the
15 policy, provided, however, that in the case of a policy providing a varying
16 amount of insurance issued on the life of a child under age 10, the equivalent
17 uniform amount may be computed as though the amount of insurance
18 provided by the policy prior to the attainment of age 10 were the amount
19 provided by such policy at age 10.

20 The adjusted premiums for any policy providing term insurance benefits
21 by rider or supplemental policy provision shall be equal to (i) the adjusted
22 premiums for an otherwise similar policy issued at the same age without
23 such term insurance benefits, increased, during the period for which
24 premiums for such term insurance benefits are payable, by (ii) the adjusted
25 premiums for such term insurance, the foregoing items (i) and (ii) being
26 calculated separately and as specified in the first two paragraphs of this
27 subsection except that, for the purposes of (ii), (iii) and (iv) of the first such
28 paragraph, the amount of insurance or equivalent uniform amount of
29 insurance used in the calculation of the adjusted premiums referred to in (ii)
30 of this paragraph shall be equal to the excess of the corresponding amount
31 determined for the entire policy over the amount used in the calculation of
32 the adjusted premiums in (i).

33 Except as otherwise provided in subdivisions (2) and (3) of this
34 subsection, all adjusted premiums and present values referred to in this
35 section shall for all policies of ordinary insurance be calculated on the basis
36 of the Commissioner's 1941 Standard Ordinary Mortality Table, provided
37 that for any category of ordinary insurance issued on female risks, adjusted
38 premiums and present values may be calculated according to an age not
39 more than three years younger than the actual age of the insured, and such
40 calculations for all policies of industrial insurance shall be made on the basis
41 of the 1941 Standard Industrial Mortality Table. All calculations shall be
42 made on the basis of the rate of interest, not exceeding three and one-half
43 percent (3 1/2%) per annum, specified in the policy for calculating cash
44 surrender values and paid-up nonforfeiture benefits. Provided, however, that
45 in calculating the present value of any paid-up term insurance with
46 accompanying pure endowment, if any, offered as a nonforfeiture benefit,
47 the rates of mortality assumed may not be more than one hundred and thirty
48 percent (130%) of the rates of mortality according to such applicable table.
49 Provided, further, that for insurance issued on a substandard basis, the
50 calculation of any such adjusted premiums and present values may be based

on such other table of mortality as may be specified by the company and approved by the Commissioner.

...
(4)

a. This subdivision shall apply to all policies issued on or after the operative date of this subdivision (4) of subsection (e) as defined herein. Except as provided in paragraph g of this subdivision, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums shall be equal to the sum of (i) the then present value of the future guaranteed benefits provided for by the policy; (ii) one percent (1%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years; and (iii) one hundred twenty-five percent (125%) of the nonforfeiture net level premium as hereinafter defined. Provided, however, that in applying the percentage specified in (iii) above no nonforfeiture net level premium shall be deemed to exceed four percent (4%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years. The date of issue of a policy for the purpose of this subdivision shall be the date as of which the rated age of the insured is determined.

...
h.

All adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of (i) the Commissioner's 1980 Standard Ordinary Mortality Table or (ii) at the election of the company for any one or more specified plans of life insurance, the Commissioner's 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors; shall for all policies of industrial insurance be calculated on the basis of the Commissioner's 1961 Standard Industrial Mortality Table; and shall for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this subdivision for policies issued in that calendar year. Provided, however, that:

...

6. Any ~~For~~ policies issued prior to the operative date of the valuation manual, which is defined in G.S. 58-58-51, any Commissioners Standard ordinary mortality tables, adopted after 1980 by the NAIC, that are approved by regulation promulgated by the Commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioner's 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioner's 1980 Extended Term Insurance Table. For

1 policies issued on or after the operative date of the valuation
2 manual, the valuation manual shall provide the
3 Commissioners Standard mortality table for use in
4 determining the minimum nonforfeiture standard that may be
5 substituted for the Commissioners 1980 Standard Ordinary
6 Mortality Table with or without Ten-Year Select Mortality
7 Factors or for the Commissioners 1980 Extended Term
8 Insurance Table. If the Commissioner approves by regulation
9 any Commissioners Standard ordinary mortality table adopted
10 by the NAIC for use in determining the minimum
11 nonforfeiture standard for policies issued on or after the
12 operative date of the valuation manual, then that minimum
13 nonforfeiture standard supersedes the minimum nonforfeiture
14 standard provided by the valuation manual.

- 15 7. Any-For policies issued prior to the operative date of the
16 valuation manual, any Commissioners Standard industrial
17 mortality tables, adopted after 1980 by the NAIC, that are
18 approved by regulation promulgated by the Commissioner for
19 use in determining the minimum nonforfeiture standard may
20 be substituted for the Commissioner's 1961 Standard
21 Industrial Mortality Table or the Commissioner's 1961
22 Industrial Extended Term Insurance Table. For policies
23 issued on or after the operative date of the valuation manual,
24 the valuation manual shall provide the Commissioners
25 Standard mortality table for use in determining the minimum
26 nonforfeiture standard that may be substituted for the
27 Commissioners 1961 Industrial Extended Term Insurance
28 Table. If the Commissioner approves by regulation any
29 Commissioners Standard industrial mortality table adopted by
30 the NAIC for use in determining the minimum nonforfeiture
31 standard for policies issued on or after the operative date of
32 the valuation manual, then that minimum nonforfeiture
33 standard supersedes the minimum nonforfeiture standard
34 provided by the valuation manual.

- 35 i. TheFor policies issued prior to the operative date of the valuation
36 manual, the nonforfeiture interest rate per annum for any policy
37 issued in a particular calendar year shall be equal to one hundred and
38 twenty-five percent (125%) of the calendar year statutory valuation
39 interest rate for such policy as defined in the Standard Valuation
40 Law, rounded to the nearer one quarter of one percent (1/4 of
41 1%)-(1/4 of 1%), but not less than four percent (4%). For policies
42 issued on or after the operative date of the valuation manual, the
43 nonforfeiture interest rate per annum for any policy issued in a
44 particular calendar year shall be provided by the valuation manual.

45"

46 **SECTION 3.** Article 58 of Chapter 58 of the General Statutes is amended by
47 adding a new section to read:

48 **"§ 58-58-51. NAIC valuation manual operative date.**

49 (a) As used in the section, "valuation manual" means the manual of valuation
50 instructions adopted by the NAIC or as subsequently amended.

1 (b) The operative date of the valuation manual is January 1 of the first calendar year
2 that begins following the first July 1 as of which all of the following have occurred:

- 3 (1) The valuation manual has been adopted by the NAIC by an affirmative vote
4 of at least 42 members, or three-fourths of the members voting, whichever is
5 greater.
6 (2) The model Standard Valuation Law, as amended by the NAIC in 2009, or
7 legislation including substantially similar terms and provisions, has been
8 enacted by states representing more than seventy-five percent (75%) of the
9 direct premiums written as reported in the following annual statements
10 submitted for 2008: life, accident and health annual statements; health
11 annual statements; and fraternal annual statements.
12 (3) The model Standard Valuation Law, as amended by the NAIC in 2009, or
13 legislation including substantially similar terms and provisions, has been
14 enacted by at least 42 of the following 55 jurisdictions: the 50 states of the
15 United States, American Samoa, the American Virgin Islands, the District of
16 Columbia, Guam, and Puerto Rico."

17 **SECTION 4.** G.S. 58-50-50(j) reads as rewritten:

18 "(j) Each opinion required by subsection (i) of this section shall be governed by the
19 following provisions:

- 20 (1) A memorandum, in form and substance acceptable to the Commissioner as
21 specified by rule, shall be prepared to support each actuarial opinion.
22 (2) If the insurance company fails to provide a supporting memorandum at the
23 request of the Commissioner within a period specified by rule or the
24 Commissioner determines that the supporting memorandum provided by the
25 insurance company fails to meet the standards prescribed by the rules or is
26 otherwise unacceptable to the Commissioner, the Commissioner may engage
27 a qualified actuary at the expense of the company to review the opinion and
28 the basis for the opinion and prepare such supporting memorandum as is
29 required by the Commissioner.
30 (3) The opinion shall be submitted with the annual statement reflecting the
31 valuation of such reserve liabilities for each year ending on or after
32 December 31, 1994.
33 (4) The opinion shall apply to all business in force including individual and
34 group health insurance plans, in form and substance acceptable to the
35 Commissioner as specified by rule.
36 (5) The opinion shall be based on standards adopted from time to time by the
37 actuarial standards board and on such additional standards as the
38 Commissioner may by rule prescribe.
39 (6) In the case of an opinion required to be submitted by a foreign or alien
40 company, the Commissioner may accept the opinion filed by that company
41 with the insurance supervisory official of another state if the Commissioner
42 determines that the opinion reasonably meets the requirements applicable to
43 a company domiciled in this State.
44 (7) For the purposes of this section, "qualified actuary" means a member in good
45 standing of the American Academy of Actuaries who meets the requirement
46 set forth in such rules.
47 (8) Except in cases of fraud or willful misconduct, the qualified actuary shall not
48 be liable for damages to any person (other than the insurance company and
49 the Commissioner) for any act, error, omission, decision, or conduct with
50 respect to the actuary's opinion.

- (9) Disciplinary action by the Commissioner against the company or the qualified actuary shall be defined in rules by the Commissioner.
- ~~(10) Any memorandum in support of the opinion, and any other material provided by the company to the Commissioner in connection therewith, shall be kept confidential by the Commissioner and shall not be made public and shall not be subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this section or by rules adopted under this section; provided, however, that the memorandum or other material may otherwise be released by the Commissioner (i) with the written consent of the company or (ii) to the American Academy of Actuaries upon request stating the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the Commissioner for preserving the confidentiality of the memorandum or other material. Once any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, all portions of the confidential memorandum shall be no longer confidential. Except as provided in subdivisions (14), (15), and (16) of this subsection, documents, materials, or other information in the possession or control of the Commissioner that are included in a memorandum in support of the opinion, and any other material provided by the company to the Commissioner in connection with the opinion, shall be confidential by law and privileged, shall not be subject to or public records under G.S. 58-2-100 or Chapter 132 of the General Statutes, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the Commissioner is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as part of the Commissioner's official duties.~~
- (11) Neither the Commissioner nor any person who received documents, materials or other information while acting under the authority of the Commissioner shall be permitted or required to testify concerning any confidential documents, materials or information subject to subdivision (10) of this subsection in any private civil action.
- (12) In order to assist in the performance of the Commissioner's duties, the Commissioner may do any of the following:
- a. Share documents, materials or other information, including the confidential and privileged documents, materials, or information subject to subdivision (10) of this subsection, with other state, federal and international regulatory agencies, with the National Association of Insurance Commissioners and its affiliates and subsidiaries, and with state, federal and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material or other information.
- b. Receive documents, materials, or information, including otherwise confidential and privileged documents, materials or information, from the National Association of Insurance Commissioners and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or

1 privileged under the laws of the jurisdiction that is the source of the
2 document, material or information.

3 c. Enter into agreements governing sharing and use of information
4 consistent with subdivisions (10) through (12) of this subsection.

5 (13) No waiver of any applicable privilege or claim of confidentiality in the
6 documents, materials or information shall occur as a result of disclosure to
7 the Commissioner under this section or as a result of sharing authorized by
8 subdivision (12) of this subsection.

9 (14) A memorandum in support of an opinion, and any other material provided
10 by the company in connection with the memorandum, may be subject to
11 subpoena for the purpose of defending an action seeking damages from the
12 actuary submitting the memorandum by reason of any action required by this
13 section or by rules adopted under this section.

14 (15) The memorandum or other material may otherwise be released by the
15 Commissioner (i) with the written consent of the company or (ii) to the
16 American Academy of Actuaries upon request stating the memorandum or
17 other material is required for the purpose of professional disciplinary
18 proceedings and setting forth procedures satisfactory to the Commissioner
19 for preserving the confidentiality of the memorandum or other material.

20 (16) Once any portion of the confidential memorandum is cited by the company
21 in its marketing or is cited before any governmental agency other than a state
22 insurance department or is released by the company to the news media, all
23 portions of the confidential memorandum shall no longer be confidential."

24 **SECTION 5.** If any section or provision of this act is declared unconstitutional,
25 preempted, or otherwise invalid by the courts, it does not affect the validity of the act as a
26 whole or any part other than the part so declared to be unconstitutional, preempted, or
27 otherwise invalid.

28 **SECTION 6.** Sections 1 and 2 of this act become effective on the operative date of
29 the manual of valuation instructions adopted by the National Association of Insurance
30 Commissioners as provided in G.S. 58-58-51. The remainder of this act is effective when it
31 becomes law.



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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

D

HOUSE BILL 361
PROPOSED SENATE COMMITTEE SUBSTITUTE H361-CSTU-24 [v.9]

9/14/2015 4:52:59 PM

Short Title: Principle-Based Reserving/Revise Ins. Laws.

(Public)

Sponsors:

Referred to:

March 26, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR PRINCIPLE-BASED VALUATION IN THE LIFE
3 INSURANCE STANDARD VALUATION LAW AND STANDARD NONFORFEITURE
4 PROVISIONS IN THE NORTH CAROLINA INSURANCE LAW; AND TO MAKE
5 CONFORMING AND CLARIFYING CHANGES TO THE LAWS GOVERNING
6 PROFESSIONAL EMPLOYER ORGANIZATIONS, INSURANCE COMPANY
7 DEPOSITS, CONTINUING CARE RETIREMENT COMMUNITIES, HEALTH
8 INSURANCE EXTERNAL REVIEW, AND INSURANCE COMPANY NAMES; AND
9 TO REVISE INSURANCE POLICY RENEWAL PROVISIONS; AND TO AMEND THE
10 DEFINITION OF SMALL EMPLOYER; AND TO MAKE TECHNICAL
11 CORRECTIONS.

12
13 The General Assembly of North Carolina enacts:

14
15 **PART I. REVISIONS TO NORTH CAROLINA'S STANDARD VALUATION AND**
16 **NONFORFEITURE LAWS**

17
18 **SECTION 1.** G.S. 58-58-50 reads as rewritten:

19 **"§ 58-58-50. Standard Valuation Law.**

20 (a) This section shall be known as the Standard Valuation Law.

21 (a1) As used in this section:

22 (1) Appointed actuary. – A qualified actuary who is appointed in accordance
23 with the valuation manual to prepare the actuarial opinion required in
24 subsection (j1) of this section.

25 (2) Company. – An entity which has written, issued or reinsured life insurance
26 contracts, accident and health insurance contracts, annuity contracts, pure
27 endowment contracts or deposit type contracts (i) in this State and has at
28 least one such policy in force or on claim, or (ii) in any state and is required
29 to hold a certificate of authority to write life insurance, accident and health
30 insurance, annuity contract, pure endowment or deposit-type contracts in this
31 State.

32 (3) Deposit-type contract. – A contract that does not incorporate mortality or
33 morbidity risks and as may be specified in the valuation manual.

34 (4) Policyholder behavior. – Any action a policyholder, contract holder, or any
35 other person with the right to elect options, such as a certificate holder, may
36 take under a policy or contract subject to this section, including, but not



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limited to, lapse, withdrawal, transfer, deposit, premium payment, loan, annuitization, or benefit elections prescribed by the policy or contract but excluding events of mortality or morbidity that result in benefits prescribed in their essential aspects by the terms of the policy or contract.

(5) Principle-based valuation. – A reserve valuation that uses one or more methods or one or more assumptions determined by the insurer and is required to comply with subsection (n) of this section as specified in the valuation manual.

(6) Qualified actuary. – An individual who is qualified to sign the applicable statement of actuarial opinion in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements and who meets the requirements specified in the valuation manual.

(7) Reserves. – Reserve liabilities.

(8) Tail risk. – A risk that occurs either where the frequency of low probability events is higher than expected under a normal probability distribution or where there are observed events of very significant size or magnitude.

(9) Valuation manual. – The manual of valuation instructions adopted by the NAIC as specified in this section or as subsequently amended.

(b) This subsection applies to policies and contracts issued prior to the operative date of the valuation manual. Each year the Commissioner shall value or cause to be valued the reserve liabilities ("reserves")reserves for all outstanding life insurance policies, annuity contracts, and pure endowment contracts contracts, accident and health insurance contracts, and deposit-type contracts of every life insurance company doing business in this State. In the case of an alien company, the valuation shall be limited to its United States business. The Commissioner may certify the amount of each company's reserves, specifying the mortality or morbidity tables, withdrawal rates, and other assumptions regarding when, and the degree to which, policyholders exercise contract options, such as full or partial withdrawal, rate or rates of interest, and methods, such as net level premium method or other, used in the Commissioner's calculation of the company's reserves. Group methods and approximate averages for fractions of a year or otherwise may be used by the Commissioner in calculating the company's reserves, and the Commissioner may accept the valuation made by the company upon evidence of its correctness that the Commissioner requires. For foreign or alien insurance companies, the Commissioner may accept any valuation made or caused to be made by the insurance regulator of any state or other jurisdiction if (i) that valuation complies with the minimum standard provided in this section and (ii) that regulator accepts as legally sufficient and valid the Commissioner's certificate of valuation when that certificate states that the valuation has been made in a specified manner according to which the aggregate reserves would be at least as great as if they had been computed in the manner prescribed by the law of that state or jurisdiction.

(b1) The provisions set forth in subsections (c), (d), (d1), (e), (f), (g), (h), and (k) of this section shall apply to all policies and contracts, as appropriate, subject to this section issued on or after the effective date of this section and prior to the operative date of the valuation manual. The provisions set forth in subsections (m) and (n) of this section shall not apply to policies issued prior to the operative date of the valuation manual.

(b2) This subsection applies to policies and contracts issued on or after the operative date of the valuation manual. The Commissioner shall annually value, or cause to be valued, the reserves for all outstanding life insurance contracts, annuity contracts, pure endowment contracts, accident and health insurance contracts, and deposit-type contracts of every company issued on or after the operative date of the valuation manual. In lieu of the valuation of the reserves required of a foreign or alien company, the Commissioner may accept a valuation

made, or caused to be made, by the insurance supervisory official of any State or other jurisdiction when that valuation complies with the minimum standard provided in this section.

(b3) The provisions set forth in subsections (m) and (n) of this section shall apply to all policies and contracts issued on or after the operative date of the valuation manual.

(c) (1) Except as otherwise provided in subdivisions (3) and (4) of this subsection, or in subsection (k), the minimum standard for the valuation of all such policies and contracts issued before the effective date of this section shall be that provided by the laws in effect immediately before that date, except that the minimum standard for the valuation of annuities and pure endowments purchased under group annuity and pure endowment contracts issued before that date shall be that provided by the laws in effect immediately before that date but replacing the interest rates specified in such laws by an interest rate of five percent (5%) per annum, and five and one-half percent (5 ½%) interest for single premium life insurance policies.

(2) Except as otherwise provided in subdivisions (3) and (4) of this subsection, or in subsection (k), the minimum standards for the valuation of all such policies and contracts issued on or after the effective date of this section shall be the Commissioner's reserve valuation methods defined in subsections (d), ~~(d-1)(d1)~~, and ~~(g)~~, and (k), five percent (5%) interest for group annuity and pure endowment contracts and three and one-half percent (3 ½%) interest for all other policies and contracts, or, in the case of policies and contracts other than annuity and pure endowment contracts, issued on or after July 1, 1975, four percent (4%) interest for such policies issued prior to April 19, 1979, and four and one-half percent (4 ½%) interest for such policies issued on or after April 19, 1979, and the following tables:

(3) Except as provided in subdivision (4) of this subsection, the minimum standard ~~for the~~ valuation of ~~all~~ for individual annuity and pure endowment contracts issued on or after the operative date of this subdivision (3), as defined herein, and for ~~all~~ annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts, shall be the Commissioner's reserve valuation methods defined in subsections (d) and ~~(d-1)(d1)~~ and the following tables and interest rates:

...
After July 1, 1975, any company may file with the Commissioner a written notice of its election to comply with the provisions of this subdivision (3) after a specified date before January 1, 1979, which shall be the operative date of this subdivision for such company, provided, a company may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If a company makes no such election, the operative date of this subdivision for such company shall be January 1, 1979.

(4) a. Applicability of ~~This Subdivision~~ this subdivision. The interest rates used in determining the minimum standard for the valuation of:

1. ~~All life~~ Life insurance policies issued in a particular calendar year, on or after the operative date of subdivision (e)(4) of G.S. 58-58-55,
2. ~~All individual~~ Individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1982,

- 1 3. ~~All annuities~~Annuities and pure endowments purchased in a
2 particular calendar year on or after January 1, 1982, under
3 group annuity and pure endowment contracts, and
4 4. The net increase, if any, in a particular calendar year after
5 January 1, 1982, in amounts held under guaranteed interest
6 contracts
7 shall be the calendar year statutory valuation interest rates as defined
8 in this subdivision.
9

10 ...
11 (d) Except as otherwise provided in subsections ~~(d-1) and (d1)~~, (g), and (k) reserves
12 according to the Commissioner's reserve valuation method, for the life insurance and
13 endowment benefits of policies providing for a uniform amount of insurance and requiring the
14 payment of uniform premiums, shall be the excess, if any, of the present value, at the date of
15 valuation, of such future guaranteed benefits provided for by such policies, over the then
16 present value of any future modified net premiums therefor. The modified net premiums for
17 any such policy shall be such uniform percentage of the respective contract premiums for such
18 benefits that the present value, at the date of issue of the policy, of all such modified net
19 premiums shall be equal to the sum of the then present value of such benefits provided for by
the policy and the excess of (1) and (2), as follows:

- 20 (1) A net level annual premium equal to the present value, at the date of issue,
21 of such benefits provided for after the first policy year, divided by the
22 present value, at the date of issue, of an annuity of one per annum payable
23 on the first and each subsequent anniversary of such policy on which a
24 premium falls due; provided, however, that such net level annual premium
25 shall not exceed the net level annual premium on the 19-year premium
26 whole life plan for insurance of the same amount at an age one year higher
27 than the age at issue of such policy.
28 (2) A net one year term premium for such benefits provided for in the first
29 policy year.

30 Provided that for any life insurance policy issued on or after January 1, 1985, for which the
31 contract premium in the first policy year exceeds that of the second year and for which no
32 comparable additional benefits are provided in the first year for such excess and which provides
33 an endowment benefit or a cash surrender value of a combination thereof in an amount greater
34 than such excess premium, the reserve according to the Commissioner's reserve valuation
35 method as of any policy anniversary occurring on or before the assumed ending date defined
36 herein as the first policy anniversary on which the sum of any endowment benefit and any cash
37 surrender value then available is greater than such excess premium shall, except as otherwise
38 provided in subsection (g), be the greater of the reserve as of such policy anniversary calculated
39 as described in the first paragraph of this subsection and the reserve as of such policy
40 anniversary calculated as described in that paragraph, but with (i) the value defined in
41 subparagraph (1) of that paragraph being reduced by fifteen percent (15%) of the amount of
42 such excess first year premium, (ii) all present values of benefits and premiums being
43 determined without reference to premiums or benefits provided for by the policy after the
44 assumed ending date, (iii) the policy being assumed to mature on such date as an endowment,
45 and (iv) the cash surrender value provided on such date being considered as an endowment
46 benefit. In making the above comparison the mortality and interest bases stated in subdivisions
47 (2) and (4) of subsection (c) shall be used.

48 Reserves according to the Commissioner's reserve valuation method for: (i) life insurance
49 policies providing for a varying amount of insurance or requiring the payment of varying
50 premiums; (ii) group annuity and pure endowment contracts purchased under a retirement plan
51 or plan of deferred compensation, established or maintained by an employer (including a

partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended; (iii) disability and accidental death benefits in all policies and contracts; and (iv) all other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of this subsection except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.

~~(d-1)~~(d1) This subsection shall apply to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended.

Reserves according to the Commissioner's annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of such contract, that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values.

(e) In no event shall a company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after the effective date of this section, be less than the aggregate reserves calculated in accordance with the methods set forth in subsections (d), ~~(d-1)~~, (d1), (g) and (h) of this section and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies. In no event shall the aggregate reserves for all policies, contracts, and benefits be less than the aggregate reserves determined by the qualified-appointed actuary to be necessary to render the opinion required by subsection (i) or subsection (j1) of this section.

(f) Reserves for all policies and contracts issued before the effective date of this section may be calculated, at the option of the company, according to any standards that produce greater aggregate reserves for those policies and contracts than the minimum reserves required by the laws in effect immediately before that date.

Reserves for any category of policies, contracts or benefits as established by the Commissioner, issued on or after the effective date of this section may be calculated, at the option of the company, according to any standards that produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher-greater than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein in the policies or contracts.

Any such company that adopts any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the Commissioner, adopt any lower standard of valuation, but not lower than the minimum ~~herein provided~~ provided in this section. Provided, however, that for the purposes of this section, the holding of additional reserves previously determined by a qualified ~~the~~ appointed actuary to be necessary to render the opinion required by subsection ~~(e)~~ (i) or (j1) of this section shall not be deemed to be the adoption of a higher standard of valuation.

(g) If in any contract year the gross premium charged by any ~~life insurance~~ company on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this subsection are those standards stated in subdivisions (1), (2) and (4) of subsection (c).

Provided that for any life insurance policy issued on or after January 1, 1985, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the foregoing provisions of this subsection ~~(g)~~ shall be applied as if the method actually used in calculating the reserve for such policy were the method described in subsection (d), ignoring the second paragraph of subsection (d). The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with subsection (d), including the second paragraph of that subsection, and the minimum reserve calculated in accordance with this ~~subsection (g)~~ subsection.

(h) In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in subsections (d), ~~(d-1)~~, (d1) and (g), the reserves which are held under any such plan must:

- (1) Be appropriate in relation to the benefits and the pattern of premiums for that plan, and
- (2) Be computed by a method which is consistent with the principles of this Standard Valuation Law, as determined by regulations promulgated by the Commissioner.

(i) ~~Every~~ Prior to the operative date of the valuation manual as specified in G.S. 58-58-51, every life insurance company doing business in this State shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the Commissioner by rule are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with previously reported amounts, and comply with applicable laws of this State. The Commissioner by rule shall define the specifics of this opinion and add any other items deemed to be necessary to its scope. Every life insurance company, except as exempted by or pursuant to rule, shall also annually include in the opinion required by this subsection, an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the Commissioner by rule, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts. The Commissioner may provide by rule for a transition period for establishing any higher reserves that the qualified actuary may deem to be necessary in order to render the opinion required by this subsection.

(j) Each opinion required by subsection (i) of this section shall be governed by the following provisions:

...

~~(7) For the purposes of this section, "qualified actuary" means a member in good standing of the American Academy of Actuaries who meets the requirement set forth in such rules.~~

...

(j1) On or after the operative date of the valuation manual, every company with outstanding life insurance contracts, annuity contracts, pure endowment contracts, accident and health insurance contracts or deposit-type contracts in this State and subject to regulation by the Commissioner shall annually submit the opinion of the appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with previously reported amounts, and comply with applicable laws of this State. The valuation manual shall prescribe the specifics of this opinion, including any items deemed to be necessary to its scope. Every company with outstanding life insurance contracts, annuity contracts, pure endowment contracts, accident and health insurance contracts or deposit-type contracts in this State and subject to regulation by the Commissioner, except as exempted in the valuation manual, shall also annually include in the opinion required by this subsection, an opinion of the same appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including, but not limited to, the benefits under and expenses associated with the policies and contracts.

(j2) Each opinion required by subsection (j1) of this section shall be governed by the following provisions:

(1) A memorandum, in form and substance as specified in the valuation manual and acceptable to the Commissioner, shall be prepared to support each actuarial opinion.

(2) If the company fails to provide a supporting memorandum at the request of the Commissioner within a period specified in the valuation manual or the Commissioner determines that the supporting memorandum provided by the company fails to meet the standards prescribed by the valuation manual or is otherwise unacceptable to the Commissioner, the Commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare such supporting memorandum as is required by the Commissioner.

(3) The opinion shall be in form and substance as specified in the valuation manual and acceptable to the Commissioner.

(4) The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after the operative date of the valuation manual.

(5) The opinion shall apply to all policies and contracts subject to subsection (j1) of this section plus other actuarial liabilities as specified in the valuation manual.

(6) The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board or its successor and on such additional standards as may be prescribed in the valuation manual.

- 1 (7) In the case of an opinion required to be submitted by a foreign or alien
2 company, the Commissioner may accept the opinion filed by that company
3 with the insurance supervisory official of another state if the Commissioner
4 determines that the opinion reasonably meets the requirements applicable to
5 a company domiciled in this State.
- 6 (8) Except in cases of fraud or willful misconduct, the appointed actuary shall
7 not be liable for damages to any person (other than the company and the
8 Commissioner) for any act, error, omission, decision, or conduct with
9 respect to the appointed actuary's opinion.
- 10 (9) Disciplinary action by the Commissioner against the company or the
11 appointed actuary shall be defined in rules by the Commissioner.
- 12 (k) The Commissioner shall adopt rules containing the minimum standards applicable
13 to the valuation of ~~accident and health plans~~ insurance contracts issued prior to the operative
14 date of the valuation manual. The Commissioner may also adopt rules for the purpose of
15 recognizing new annuity mortality tables for use in determining reserve liabilities for annuities
16 and may adopt rules that govern minimum valuation standards for reserves of life insurance
17 companies. In adopting these rules, the Commissioner may consider model laws and
18 regulations promulgated and amended from time to time by the NAIC.
- 19 (l) The Commissioner may adopt rules for life insurers for the following matters:
- 20 (1) Reserves for contracts issued by insurers.
- 21 (2) Optional smoker-nonsmoker mortality tables permitted for use in
22 determining minimum reserve liabilities and nonforfeiture benefits.
- 23 (3) Optional blended gender mortality tables permitted for use in determining
24 nonforfeiture benefits for individual life policies.
- 25 (4) Optional tables acceptable for use in determining reserves and minimum
26 cash surrender values and amounts of paid-up nonforfeiture benefits.
- 27 (5) Assumptions for policyholder withdrawal rates for use in determining
28 minimum reserve liabilities.
- 29 In adopting these rules, the Commissioner may consider model laws and regulations
30 promulgated and amended from time to time by the NAIC.
- 31 (m) The valuation manual shall apply as described in this subsection.
- 32 (1) For policies issued on or after the operative date of the valuation manual, the
33 standard prescribed in the valuation manual is the minimum standard of
34 valuation required under subsections (b2) and (b3) of this section, except as
35 provided under subdivisions (5) or (7) of this subsection.
- 36 (2) The operative date of the valuation manual is specified in G.S. 58-58-51(b).
- 37 (3) Unless a change in the valuation manual specifies a later effective date,
38 changes to the valuation manual shall be effective on January 1 of the year
39 following the date when the change to the valuation manual has been
40 adopted by the NAIC by an affirmative vote representing each of the
41 following:
- 42 a. At least three-fourths of the members of the NAIC voting, but not
43 less than a majority of the total membership.
- 44 b. Members of the NAIC representing jurisdictions totaling more than
45 seventy-five percent (75%) of the direct premiums written as
46 reported in the following annual statements most recently available
47 prior to the vote described in this subdivision: life, accident and
48 health annual statements; health annual statements; and fraternal
49 annual statements.
- 50 (4) The valuation manual must specify all of the following:

- a. Minimum valuation standards for and definitions of the policies or contracts subject to subsections (b2) and (b3) of this section. Such minimum valuation standards shall be as follows:
 1. The Commissioner's reserve valuation method for life insurance contracts subject to subsections (b2) and (b3) of this section.
 2. The Commissioner's annuity reserve valuation method for annuity contracts subject to subsections (b2) and (b3) of this section.
 3. Minimum reserves for all other policies or contracts subject to subsections (b2) and (b3) of this section.
 - b. The policies or contracts or types of policies or contracts that are subject to the requirements of a principle-based valuation as described in subsection (n) of this section and the minimum valuation standards consistent with those requirements.
 - c. For policies and contracts subject to a principle-based valuation under subsection (n) of this section, each of the following:
 1. Requirements for the format of reports to the Commissioner under sub-subdivision (2)(c) of subsection (n) of this section. Such reports shall include information necessary to determine if the valuation is appropriate and in compliance with this section.
 2. Assumptions shall be prescribed for risks over which the company does not have significant control or influence.
 3. Procedures for corporate governance and oversight of the actuarial function, and a process for appropriate waiver or modification of such procedures.
 - d. For policies not subject to a principle-based valuation under subsection (n) of this section, the minimum valuation standard shall either:
 1. Be consistent with the minimum standard of valuation prior to the operative date of the valuation manual; or
 2. Develop reserves that quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring.
 - e. Other requirements, including, but not limited to, those relating to reserve methods, models for measuring risk, generation of economic scenarios, assumptions, margins, use of company experience, risk measurement, disclosure, certifications, reports, actuarial opinions and memorandums, transition rules and internal controls.
 - f. The data and form of the data required under subsection (o) of this section, to whom the data must be submitted, and may specify other requirements, including data analyses and reporting of analyses.
- (5) In the absence of a specific valuation requirement, or if a specific valuation requirement in the valuation manual is not, in the opinion of the Commissioner, in compliance with this section, then the company shall, with respect to such requirements, comply with minimum valuation standards prescribed by the Commissioner by rule.

- (6) The Commissioner may engage a qualified actuary, at the expense of the company, to perform an actuarial examination of the company and opine on the appropriateness of any reserve assumption or method used by the company, or to review and opine on a company's compliance with any requirement set forth in this section. The Commissioner may rely upon the opinion, regarding provisions contained in this section, of a qualified actuary engaged by the insurance regulator of another state, district, or territory of the United States. As used in this subdivision, the term "engage" includes employment and contracting.
- (7) The Commissioner may require a company to change any assumption or method that in the opinion of the Commissioner is necessary in order to comply with the requirements of the valuation manual or this section; and the company shall adjust the reserves as required by the Commissioner. The Commissioner may take other disciplinary action as specified in rules adopted by the Commissioner.
- (n) The requirements of this subsection shall apply to any principle-based valuation of policies issued on or after the operative date of the valuation manual.
- (1) A company using a principle-based valuation for one or more policies or contracts subject to this subsection as specified in the valuation manual must establish, for those policies and contracts, reserves that meet all of the following:
- a. Quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring during the lifetime of the contracts. For policies or contracts with significant tail risk, the reserves shall reflect conditions appropriately adverse to quantify the tail risk.
 - b. Incorporate assumptions, risk analysis methods and financial models and management techniques that are consistent with, but not necessarily identical to, those utilized within the company's overall risk assessment process, while recognizing potential differences in financial reporting structures and any prescribed assumptions or methods.
 - c. Incorporate assumptions that are derived in one of the following manners:
 - 1. The assumption is prescribed in the valuation manual.
 - 2. For assumptions that are not prescribed, the assumptions shall (i) be established utilizing the company's available experience, to the extent it is relevant and statistically credible; or (ii) to the extent that company data is not available, relevant, or statistically credible, be established utilizing other relevant, statistically credible experience.
 - d. Provide margins for uncertainty, including adverse deviation and estimation error, such that the greater the uncertainty, the larger the margin and resulting reserve.
- (2) A company using a principle-based valuation for one or more policies or contracts subject to this subsection as specified in the valuation manual shall do the following:

- 1 a. Establish procedures for corporate governance and oversight of the
2 actuarial valuation function consistent with those described in the
3 valuation manual.
- 4 b. Provide to the Commissioner and the board of directors an annual
5 certification of the effectiveness of the internal controls with respect
6 to the principle-based valuation. Such controls shall be designed to
7 assure that all material risks inherent in the liabilities and associated
8 assets subject to such valuation are included in the valuation, and that
9 valuations are made in accordance with the valuation manual. The
10 certification shall be based on the controls in place as of the end of
11 the preceding calendar year.
- 12 c. Develop, and file with the Commissioner upon request, a
13 principle-based valuation report that complies with standards
14 prescribed in the valuation manual.
- 15 (o) A company shall submit mortality, morbidity, policyholder behavior, or expense
16 experience and other data as prescribed in the valuation manual.
- 17 (p) The confidentiality of documents, materials, and other information provided to the
18 Commissioner under this section shall be maintained as described in this subsection.
- 19 (1) For purposes of this subsection, "confidential information" shall include all
20 of the following:
- 21 a. A memorandum in support of an opinion submitted under
22 subsections (i) or (j1) of this section and any other documents,
23 materials, and other information, including, but not limited to, all
24 working papers, and copies thereof, created, produced, or obtained
25 by or disclosed to the Commissioner or any other person in
26 connection with such memorandum.
- 27 b. All documents, materials, and other information, including, but not
28 limited to, all working papers and copies thereof, created, produced
29 or obtained by or disclosed to the Commissioner or any other person
30 in the course of an examination made under subdivision (6) of
31 subsection (m) of this section; provided, however, that if an
32 examination report or other material prepared in connection with an
33 examination made under the Examination Law (G.S. 58-2-131
34 through G.S. 58-2-134) is not held as private and confidential
35 information under the Examination Law, an examination report or
36 other material prepared in connection with an examination made
37 under subdivision (6) of subsection (m) of this section shall not be
38 "confidential information" to the same extent as if such examination
39 report or other material had been prepared under the Examination
40 Law.
- 41 c. Any reports, documents, materials and other information developed
42 by a company in support of, or in connection with, an annual
43 certification by the company under sub-subdivision (2)b. of
44 subsection (n) of this section evaluating the effectiveness of the
45 company's internal controls with respect to a principle-based
46 valuation and any other documents, materials and other information,
47 including, but not limited to, all working papers, and copies thereof,
48 created, produced or obtained by or disclosed to the Commissioner or
49 any other person in connection with such reports, documents,
50 materials and other information.

d. Any principle-based valuation report developed under sub-subdivision (2)c. of subsection (n) of this section and any other documents, materials and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the Commissioner or any other person in connection with such report.

e. Any documents, materials, data and other information submitted by a company under subsection (o) of this section (collectively, "experience data") and any other documents, materials, data and other information, including, but not limited to, all working papers, and copies thereof, created or produced in connection with such experience data, in each case that includes any potentially company-identifying or personally identifiable information, that is provided to or obtained by the Commissioner (together with any "experience data," the "experience materials") and any other documents, materials, data and other information, including, but not limited to, all working papers, and copies thereof, created, produced, or obtained by or disclosed to the Commissioner or any other person in connection with such experience materials.

(2) Except as provided in this subsection, a company's confidential information is confidential by law and privileged, shall not be subject to or considered public record under G.S. 58-2-100 or Chapter 132 of the General Statutes, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the Commissioner is authorized to use the confidential information in the furtherance of any regulatory or legal action brought as a part of the Commissioner's official duties.

(3) Neither the Commissioner nor any person who received confidential information while acting under the authority of the Commissioner shall be permitted or required to testify in any private civil action concerning any confidential information.

(4) In order to assist in the performance of the Commissioner's duties, the Commissioner may share confidential information (i) with other state, federal, and international regulatory agencies and with the NAIC and its affiliates and subsidiaries and (ii) in the case of confidential information specified in sub-subdivisions (1)a. and (1)d. of this subsection only, with the Actuarial Board for Counseling and Discipline or its successor upon request stating that the confidential information is required for the purpose of professional disciplinary proceedings and with state, federal, and international law enforcement officials; in the case of (i) and (ii), provided that such recipient agrees, and has the legal authority to agree, to maintain the confidentiality and privileged status of such documents, materials, data and other information in the same manner and to the same extent as required for the Commissioner.

(5) The Commissioner may receive documents, materials, data and other information, including otherwise confidential and privileged documents, materials, data or information, from the NAIC and its affiliates and subsidiaries, from regulatory or law enforcement officials of other foreign or domestic jurisdictions and from the Actuarial Board for Counseling and Discipline or its successor and shall maintain as confidential or privileged any document, material, data or other information received with notice or the

understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or other information.

(6) The Commissioner may enter into agreements governing the sharing and use of information consistent with this subsection.

(7) No waiver of any applicable privilege or claim of confidentiality in the confidential information shall occur as a result of disclosure to the Commissioner under this subsection or as a result of sharing as authorized in subdivision (4) of this subsection.

(8) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this subsection shall be available and enforced in any proceeding in, and in any court of, this State.

(9) In this subsection, "regulatory agency," "law enforcement agency" and the "NAIC" include, but are not limited to, their employees, agents, consultants, and contractors.

(10) Notwithstanding subdivisions (2) through (9) of this subsection, confidential information specified in sub-subdivisions (1)a. and (1)d. of this subsection may be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the related memorandum in support of an opinion submitted under subsection (i) or (j1) of this section or principle-based valuation report developed under sub-subdivision (2)c. of subsection (n) of this section by reason of an action required by this section or by rules promulgated by the Commissioner. Such confidential information may otherwise be released by the Commissioner with the written consent of the company. Once any portion of a memorandum in support of an opinion submitted under subsection (i) or (j1) of this section or a principle-based valuation report developed under sub-subdivision (2)c. of subsection (n) of this section is cited by the company in its marketing or is publicly volunteered to or before a governmental agency other than a state insurance department or is released by the company to the news media, all portions of such memorandum or report shall no longer be confidential.

(q) The Commissioner may exempt specific product forms or product lines of a domestic company that is licensed and doing business only in this State from the requirements of subsection (m) of this section provided (i) the Commissioner has issued an exemption in writing to the company and has not subsequently revoked the exemption in writing; and (ii) the company computes reserves using assumptions and methods used prior to the operative date of the valuation manual in addition to any requirements established by the Commissioner by rule. For any company granted an exemption under this subsection, the following subsections of this section shall be applicable: (c), (d), (d1), (e), (f), (g), (h), (i), (j), (j1), (j2) and (k), excluding any references to subsection (m) found therein.

(r) The Department shall have full authority to enter into contracts or other agreements with the National Association of Insurance Commissioners, or any other state, entity, or person to fulfill the requirements of this section. Such contracts shall not be subject to Articles 3, 3C, and 8 of Chapter 143 of the General Statutes, or any rules and procedures adopted under those Articles concerning procurement, contracting, and contract review."

SECTION 2. G.S. 58-58-55 reads as rewritten:

"§ 58-58-55. Standard nonforfeiture provisions.

...

(1) This subdivision (1) of subsection (e) shall not apply to policies issued on or after the operative date of subdivision (4) of subsection (e) as defined

1 therein. Except as provided in the third paragraph of this subdivision, the
2 adjusted premiums for any policy shall be calculated on an annual basis and
3 shall be such uniform percentage of the respective premiums specified in the
4 policy for each policy year, excluding any extra premiums charged because
5 of impairments or special hazards, that the present value, at the date of issue
6 of the policy, of all such adjusted premiums shall be equal to the sum of (i)
7 the then present value of the future guaranteed benefits provided for by the
8 policy; (ii) two percent (2%) of the amount of insurance, if the insurance be
9 uniform in amount, or of the equivalent uniform amount, as hereinafter
10 defined, if the amount of insurance varies with duration of the policy; (iii)
11 forty percent (40%) of the adjusted premium for the first policy year; (iv)
12 twenty-five percent (25%) of either the adjusted premium for the first policy
13 year or the adjusted premium for a whole life policy of the same uniform or
14 equivalent uniform amount with uniform premiums for the whole of life
15 issued at the same age for the same amount of insurance, whichever is less.
16 Provided, however, that in applying the percentages specified in (iii) and (iv)
17 above, no adjusted premium shall be deemed to exceed four percent (4%) of
18 the amount of insurance or uniform amount equivalent thereto. The date of
19 issue of a policy for the purpose of this subsection shall be the date as of
20 which the rated age of the insured is determined.

21 In the case of a policy providing an amount of insurance varying with
22 duration of the policy, the equivalent uniform amount thereof for the purpose
23 of this section shall be deemed to be the uniform amount of insurance
24 provided by an otherwise similar policy containing the same endowment
25 benefit or benefits, if any, issued at the same age and for the same term, the
26 amount of which does not vary with duration and the benefits under which
27 have the same present value at the date of issue as the benefits under the
28 policy, provided, however, that in the case of a policy providing a varying
29 amount of insurance issued on the life of a child under age 10, the equivalent
30 uniform amount may be computed as though the amount of insurance
31 provided by the policy prior to the attainment of age 10 were the amount
32 provided by such policy at age 10.

33 The adjusted premiums for any policy providing term insurance benefits
34 by rider or supplemental policy provision shall be equal to (i) the adjusted
35 premiums for an otherwise similar policy issued at the same age without
36 such term insurance benefits, increased, during the period for which
37 premiums for such term insurance benefits are payable, by (ii) the adjusted
38 premiums for such term insurance, the foregoing items (i) and (ii) being
39 calculated separately and as specified in the first two paragraphs of this
40 subsection except that, for the purposes of (ii), (iii) and (iv) of the first such
41 paragraph, the amount of insurance or equivalent uniform amount of
42 insurance used in the calculation of the adjusted premiums referred to in (ii)
43 of this paragraph shall be equal to the excess of the corresponding amount
44 determined for the entire policy over the amount used in the calculation of
45 the adjusted premiums in (i).

46 Except as otherwise provided in subdivisions (2) and (3) of this
47 subsection, all adjusted premiums and present values referred to in this
48 section shall for all policies of ordinary insurance be calculated on the basis
49 of the Commissioner's 1941 Standard Ordinary Mortality Table, provided
50 that for any category of ordinary insurance issued on female risks, adjusted
51 premiums and present values may be calculated according to an age not

more than three years younger than the actual age of the insured, and such calculations for all policies of industrial insurance shall be made on the basis of the 1941 Standard Industrial Mortality Table. All calculations shall be made on the basis of the rate of interest, not exceeding three and one-half percent (3 1/2%) per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may not be more than one hundred and thirty percent (130%) of the rates of mortality according to such applicable table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the Commissioner.

...

- (4) a. This subdivision shall apply to all policies issued on or after the operative date of this subdivision (4) of subsection (e) as defined herein. Except as provided in paragraph g of this subdivision, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums shall be equal to the sum of (i) the then present value of the future guaranteed benefits provided for by the policy; (ii) one percent (1%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years; and (iii) one hundred twenty-five percent (125%) of the nonforfeiture net level premium as hereinafter defined. Provided, however, that in applying the percentage specified in (iii) above no nonforfeiture net level premium shall be deemed to exceed four percent (4%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years. The date of issue of a policy for the purpose of this subdivision shall be the date as of which the rated age of the insured is determined.

...

- h. All adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of (i) the Commissioner's 1980 Standard Ordinary Mortality Table or (ii) at the election of the company for any one or more specified plans of life insurance, the Commissioner's 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors; shall for all policies of industrial insurance be calculated on the basis of the Commissioner's 1961 Standard Industrial Mortality Table; and shall for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest

rate as defined in this subdivision for policies issued in that calendar year. Provided, however, that:

...

6. ~~Any~~ For policies issued prior to the operative date of the valuation manual, which is defined in G.S. 58-58-51, any Commissioners Standard ordinary mortality tables, adopted after 1980 by the NAIC, that are approved by regulation promulgated by the Commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioner's 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioner's 1980 Extended Term Insurance Table. For policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the Commissioners Standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table. If the Commissioner approves by regulation any Commissioners Standard ordinary mortality table adopted by the NAIC for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

7. ~~Any~~ For policies issued prior to the operative date of the valuation manual, any Commissioners Standard industrial mortality tables, adopted after 1980 by the NAIC, that are approved by regulation promulgated by the Commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioner's 1961 Standard Industrial Mortality Table or the Commissioner's 1961 Industrial Extended Term Insurance Table. For policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the Commissioners Standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioners 1961 Industrial Extended Term Insurance Table. If the Commissioner approves by regulation any Commissioners Standard industrial mortality table adopted by the NAIC for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

i. ~~The~~ For policies issued prior to the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to one hundred and twenty-five percent (125%) of the calendar year statutory valuation interest rate for such policy as defined in the Standard Valuation

Law, rounded to the nearer one quarter of one percent (~~1/4 of 1%~~), but not less than four percent (4%). For policies issued on or after the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be provided by the valuation manual.

...."

SECTION 3. Article 58 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-58-51. NAIC valuation manual operative date.

(a) As used in the section, "valuation manual" means the manual of valuation instructions adopted by the NAIC or as subsequently amended.

(b) The operative date of the valuation manual is January 1 of the first calendar year that begins following the first July 1 as of which all of the following have occurred:

- (1) The valuation manual has been adopted by the NAIC by an affirmative vote of at least 42 members, or three-fourths of the members voting, whichever is greater.
- (2) The model Standard Valuation Law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by states representing more than seventy-five percent (75%) of the direct premiums written as reported in the following annual statements submitted for 2008: life, accident and health annual statements; health annual statements; and fraternal annual statements.
- (3) The model Standard Valuation Law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by at least 42 of the following 55 jurisdictions: the 50 states of the United States, American Samoa, the American Virgin Islands, the District of Columbia, Guam, and Puerto Rico."

SECTION 4. G.S. 58-50-50(j) reads as rewritten:

"(j) Each opinion required by subsection (i) of this section shall be governed by the following provisions:

- (1) A memorandum, in form and substance acceptable to the Commissioner as specified by rule, shall be prepared to support each actuarial opinion.
- (2) If the insurance company fails to provide a supporting memorandum at the request of the Commissioner within a period specified by rule or the Commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the rules or is otherwise unacceptable to the Commissioner, the Commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare such supporting memorandum as is required by the Commissioner.
- (3) The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after December 31, 1994.
- (4) The opinion shall apply to all business in force including individual and group health insurance plans, in form and substance acceptable to the Commissioner as specified by rule.
- (5) The opinion shall be based on standards adopted from time to time by the actuarial standards board and on such additional standards as the Commissioner may by rule prescribe.
- (6) In the case of an opinion required to be submitted by a foreign or alien company, the Commissioner may accept the opinion filed by that company

- 1 with the insurance supervisory official of another state if the Commissioner
2 determines that the opinion reasonably meets the requirements applicable to
3 a company domiciled in this State.
- 4 (7) For the purposes of this section, "qualified actuary" means a member in good
5 standing of the American Academy of Actuaries who meets the requirement
6 set forth in such rules.
- 7 (8) Except in cases of fraud or willful misconduct, the qualified actuary shall not
8 be liable for damages to any person (other than the insurance company and
9 the Commissioner) for any act, error, omission, decision, or conduct with
10 respect to the actuary's opinion.
- 11 (9) Disciplinary action by the Commissioner against the company or the
12 qualified actuary shall be defined in rules by the Commissioner.
- 13 ~~(10) Any memorandum in support of the opinion, and any other material
14 provided by the company to the Commissioner in connection therewith, shall
15 be kept confidential by the Commissioner and shall not be made public and
16 shall not be subject to subpoena, other than for the purpose of defending an
17 action seeking damages from any person by reason of any action required by
18 this section or by rules adopted under this section; provided, however, that
19 the memorandum or other material may otherwise be released by the
20 Commissioner (i) with the written consent of the company or (ii) to the
21 American Academy of Actuaries upon request stating the memorandum or
22 other material is required for the purpose of professional disciplinary
23 proceedings and setting forth procedures satisfactory to the Commissioner
24 for preserving the confidentiality of the memorandum or other material.
25 Once any portion of the confidential memorandum is cited by the company
26 in its marketing or is cited before any governmental agency other than a state
27 insurance department or is released by the company to the news media, all
28 portions of the confidential memorandum shall be no longer
29 confidential. Except as provided in subdivisions (14), (15), and (16) of this
30 subsection, documents, materials, or other information in the possession or
31 control of the Commissioner that are included in a memorandum in support
32 of the opinion, and any other material provided by the company to the
33 Commissioner in connection with the opinion, shall be confidential by law
34 and privileged, shall not be subject to or public records under G.S. 58-2-100
35 or Chapter 132 of the General Statutes, shall not be subject to subpoena, and
36 shall not be subject to discovery or admissible in evidence in any private
37 civil action. However, the Commissioner is authorized to use the documents,
38 materials or other information in the furtherance of any regulatory or legal
39 action brought as part of the Commissioner's official duties.~~
- 40 (11) Neither the Commissioner nor any person who received documents,
41 materials or other information while acting under the authority of the
42 Commissioner shall be permitted or required to testify concerning any
43 confidential documents, materials or information subject to subdivision (10)
44 of this subsection in any private civil action.
- 45 (12) In order to assist in the performance of the Commissioner's duties, the
46 Commissioner may do any of the following:
- 47 a. Share documents, materials or other information, including the
48 confidential and privileged documents, materials, or information
49 subject to subdivision (10) of this subsection, with other state, federal
50 and international regulatory agencies, with the National Association
51 of Insurance Commissioners and its affiliates and subsidiaries, and

- 1 with state, federal and international law enforcement authorities,
2 provided that the recipient agrees to maintain the confidentiality and
3 privileged status of the document, material or other information.
- 4 b. Receive documents, materials, or information, including otherwise
5 confidential and privileged documents, materials or information,
6 from the National Association of Insurance Commissioners and its
7 affiliates and subsidiaries, and from regulatory and law enforcement
8 officials of other foreign or domestic jurisdictions, and shall maintain
9 as confidential or privileged any document, material, or information
10 received with notice or the understanding that it is confidential or
11 privileged under the laws of the jurisdiction that is the source of the
12 document, material or information.
- 13 c. Enter into agreements governing sharing and use of information
14 consistent with subdivisions (10) through (12) of this subsection.
- 15 (13) No waiver of any applicable privilege or claim of confidentiality in the
16 documents, materials or information shall occur as a result of disclosure to
17 the Commissioner under this section or as a result of sharing authorized by
18 subdivision (12) of this subsection.
- 19 (14) A memorandum in support of an opinion, and any other material provided
20 by the company in connection with the memorandum, may be subject to
21 subpoena for the purpose of defending an action seeking damages from the
22 actuary submitting the memorandum by reason of any action required by this
23 section or by rules adopted under this section.
- 24 (15) The memorandum or other material may otherwise be released by the
25 Commissioner (i) with the written consent of the company or (ii) to the
26 American Academy of Actuaries upon request stating the memorandum or
27 other material is required for the purpose of professional disciplinary
28 proceedings and setting forth procedures satisfactory to the Commissioner
29 for preserving the confidentiality of the memorandum or other material.
- 30 (16) Once any portion of the confidential memorandum is cited by the company
31 in its marketing or is cited before any governmental agency other than a state
32 insurance department or is released by the company to the news media, all
33 portions of the confidential memorandum shall no longer be confidential."

34 **SECTION 5.** If any section or provision of this act is declared unconstitutional,
35 preempted, or otherwise invalid by the courts, it does not affect the validity of the act as a
36 whole or any part other than the part so declared to be unconstitutional, preempted, or
37 otherwise invalid."

38 39 **PART II. CONFORMING AND CLARIFYING CHANGES TO VARIOUS** 40 **INSURANCE LAW PROVISIONS**

41 42 **SECTION 6.** G.S. 58-89A-60(d) reads as rewritten:

43 "(d) Every applicant shall furnish the Commissioner a complete set of fingerprints ~~and a~~
44 ~~recent photograph of each officer, director, and controlling person~~ in a form prescribed by the
45 ~~Commissioner of each officer, director, and controlling person.~~ Commissioner. Each set of
46 fingerprints shall be certified by an authorized law enforcement officer.

47 Upon request by the Department, the Department of Public Safety shall provide to the
48 Department from the State and National Repositories of Criminal Histories the criminal history
49 of any applicant and the officer, director, and controlling person of any applicant. Along with
50 the request, the Department shall provide to the Department of Public Safety the fingerprints of
51 the person that is the subject of the request, a form signed by the person that is the subject of

the request consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Public Safety. The person's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation may forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department shall keep all information obtained pursuant to this subsection confidential. The Department of Public Safety may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information.

In the event that an applicant has secured a professional employer organization license in another state in which the professional employer organization's controlling persons have completed a criminal background investigation within 12 months of this application, a certified copy of the report from the appropriate authority of that state may satisfy the requirement of this subsection. This subsection also applies to a change in a controlling party of a professional employer organization. For purposes of investigation under this subsection, the Commissioner shall have all the power conferred by G.S. 58-2-50 and other applicable provisions of this Chapter."

SECTION 7. G.S. 58-5-55(a) reads as rewritten:

"(a) In addition to other requirements of Articles 1 through 64 of this Chapter, all domestic stock insurance companies shall deposit their required statutory capital with the ~~Commissioner~~ Commissioner, and all domestic nonstock insurance companies shall deposit their required statutory surplus with the Commissioner. Such deposits shall be under the exclusive control of the Commissioner for the protection of policyholders."

SECTION 8. G.S. 58-64-80 reads as rewritten:

"§ 58-64-80. Advisory Committee.

There shall be a nine member Continuing Care Advisory Committee appointed by the Commissioner. The Committee shall consist of at least two residents of facilities, two representatives of ~~the North Carolina Association of Nonprofit Homes for the Aging~~ LeadingAge North Carolina, one individual who is a certified public accountant and is licensed to practice in this State, one individual skilled in the field of architecture or engineering, and one individual who is a health care professional."

SECTION 9. G.S. 58-50-82(b)(1) reads as rewritten:

"§ 58-50-82. Expedited external review.

"(1) Notify the insurer that made the noncertification, noncertification appeal decision, or second-level grievance review decision which is the subject of the request that the request has been received and provide a copy of the request. The Commissioner shall also request any information from the insurer necessary to make the preliminary review set forth in G.S. 58-50-80(b)(2) and require the insurer to deliver the information not later than one business-day after the request was made."

SECTION 10. G.S. 58-3-50 reads as rewritten:

"§ 58-3-50. Companies must do business in own name; emblems, insignias, etc.

Every insurance company or group of companies must conduct its business in the State in, and the policies and contracts of insurance issued by it shall be headed or entitled only by, its proper or corporate name or names. There shall not appear on the policy anything that would indicate that it is the obligation of any other than the company or companies responsible for the payment of losses under the policy, though it will be permissible to stamp or print on the policy, the name or names of the department or general agency issuing the same, and the group of companies with which the company is financially affiliated. The use of any emblem, insignia, or anything other than the true and proper corporate name of the company or group of

companies shall be permitted only with the approval of the ~~Commissioner~~ Commissioner, provided that, with the exception of policies subject to the provisions of Article 36 of this Chapter, a coverage within a policy may be issued by more than one company, so long as the policy clearly identifies the company responsible for each coverage."

PART III. REVISION TO INSURANCE POLICY RENEWAL PROVISION

SECTION 11. G.S. 58-41-20 is amending by adding a new subsection to read:

"§ 58-41-20. Notice of nonrenewal, premium rate increase, or change in coverage required.

...

"(g) Delivery by an insurer of a policy superseding a policy previously issued by the insurer at the end of the previously issued policy period is not a refusal to renew when it is delivered by:

(1) The same insurer; or

(2) An affiliate or subsidiary, as those terms are defined in G.S. 58-19-5, that has a financial strength rating, issued by an industry recognized independent insurance rating company, which financial strength rating is at least as good as the insurer issuing the superseded policy. The provisions of G.S. 58-41-25 apply to the affiliate or subsidiary as if it were the same insurer issuing the policy."

PART IV. AMENDMENT TO DEFINITION OF SMALL EMPLOYER

SECTION 12. Section 4.(b) of S.L. 2013-357 reads as rewritten:

"SECTION 4.(b) G.S. 58-50-110 reads as rewritten:

§ 58-50-110. Definitions.

As used in this Act:

...

(22b) "Small employer" means, in connection with a nongrandfathered non-transitional group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least one but not more than 100 employees on business days during the preceding calendar year and who employs at least one employee on the first day of the plan year. meets the definition of small employer under 42 U.S.C. §18024(b). The number of employees shall be determined using the method set forth in section 4980H(c)(2) of the Internal Revenue Code.

...."

PART V. TECHNICAL CORRECTIONS

SECTION 13. Section 6 of S.L. 2015-146 reads as rewritten:

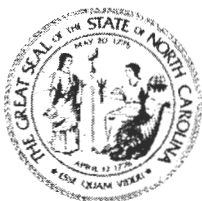
"SECTION 6. ~~Sections 1 and 3- Part I~~ of this act ~~become~~ becomes effective July 1, 2015. Section 2 of this act becomes effective January 1, 2017. Section 5 of this act becomes effective July 1, 2015, and applies to optional enhancements, as described in that section, filed and approved on or after that date. The remainder of this act is effective when it becomes law."

SECTION 14. Section 7 of S.L. 2015-101 reads as rewritten:

"SECTION 7. Sections 4, 5, and 6 of this act become effective on January 1, 2017. This- The remainder of this act is effective when it becomes law."

SECTION 15. Sections 1 and 2 of Part I of this act become effective on the operative date of the manual of valuation instructions adopted by the National Association of

1 Insurance Commissioners as provided in G.S. 58-58-51. The remainder of Part I of this act is
2 effective when it becomes law. Section 9 of Part II of this act becomes effective on January 1,
3 2016. The remainder of Part II of this act is effective when it becomes law. Part III of this act
4 is effective when it becomes law. Part IV of this act becomes effective on January 1, 2016.
5 Part V of this act is effective when it becomes law.
6
7
8
9
10



HOUSE BILL 361: Principle-Based Reserving

2015-2016 General Assembly

Committee: Senate Rules
Introduced by: Reps. Collins, Tine, Setzer
Analysis of: PCS to First Edition
H361-CSTU-24

Date: September 16, 2015
Prepared by: Kristen Harris
Tim Hovis
Staff Attorneys

SUMMARY: *The Proposed Committee Substitute for House Bill 361 would 1) provide for a principle-based reserving approach to valuing life insurance reserves in North Carolina and make minor conforming changes to the Standard Nonforfeiture Law; 2) make clarifying and conforming changes to various provisions of North Carolina's insurance laws, as requested by the Department of Insurance; 3) revise North Carolina's insurance policy renewal provision; 4) amend the definition of small employer; and 5) make technical corrections to S.L. 2015-146 and S.L. 2015-101.*

[As introduced, this bill was identical to S667, as introduced by Sen. Apodaca, which is currently in House Judiciary I, if favorable, Insurance.]

BACKGROUND AND CURRENT LAW:

North Carolina's Standard Valuation Law

North Carolina currently uses a formula-based approach based on mortality tables and interest rates to calculate life insurance policy reserves.

In 2009, the National Association of Insurance Commissioners (NAIC) adopted the Standard Valuation Law (SVL) which introduced a new method for calculating life insurance policy reserves called "principle-based reserving" (PBR). The PBR approach replaces the formulaic approach by adopting a Valuation Manual which is maintained by the NAIC. To date, 21 states have enacted legislation to implement principle-based reserving. Once at least 42 states, representing 75% of the total U.S. premium adopt the revisions to the SVL, PBR will be implemented over approximately three years and only for new business.¹

It is anticipated that PBR will become an NAIC accreditation requirement by 2016 or 2017.

BILL ANALYSIS:

Part I. Revisions to North Carolina's Standard Valuation and Nonforfeiture Laws

Section 1 would incorporate model language from the NAIC's Standard Valuation Law for new business issued after the operative date of the valuation manual, as defined in Section 3. The current statutory language would apply to business issued prior to the manual's operative date. The bill would require the Commissioner to value annually reserves for various types of contracts in the State issued on or after the operative date of the manual. Every company with outstanding contracts would be required to submit annually the opinion of the appointed actuary in accordance with the guidelines prescribed in the manual. A provision would be included addressing the confidentiality of documents, materials, and other information provided to the Commissioner. The Commissioner would be allowed to exempt specific

¹ http://www.naic.org/documents/committees_ex_pbr_implementation_tf_related_150301_pbr_implementation.pdf

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Director



Research Division
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House Bill 361

Page 2

product forms and lines of a domestic company from the manual's requirements under certain circumstances. The Department of Insurance would have authority to enter into contracts with the NAIC, other states, entities, or persons to fulfill the requirements of this section.

Section 2 would make conforming changes to the Standard Nonforfeiture Law to maintain consistency with the Standard Valuation Law in Section 1.

Section 3 would define the operative date of the NAIC valuation manual.

Section 4 would incorporate model language from the NAIC's Standard Valuation Law.

Part II. Conforming and Clarifying Changes to Various Insurance Law Provisions

G.S. 58-7-37(a) was changed during the legislative session to remove the requirement for control individuals to submit, along with fingerprints, "a recent photograph." This was due to the fact that the SBI no longer requires a photograph. **Section 6** would make the Professional Employer Organizations (PEO) statute consistent with the General Domestic Companies statute.

Section 7 would update the law pertaining to domestic security deposits (G.S. 58-5-55) to include a deposit requirement for domestic "non-stock insurance companies" organized pursuant to G.S. 58-7-75(1a). G.S. 58-5-55 addresses the deposit requirements for stock and mutual companies, but it does not address the requirement for non-stock companies.

Section 8 would update language referencing the "North Carolina Association of Non-Profit Homes for the Aging." (NCANPHA) NCANPHA would now be called "LeadingAge North Carolina."

Section 9 would require insurers in an expedited external review process to provide information to the Commissioner within one day as opposed to one "business" day.

Section 10 would allow insurers to write coverage within a policy jointly as long as the policy identifies the company responsible for each coverage.

Part III. Revision to Insurance Policy Renewal Provision

Section 11 would allow for the delivery of a policy superseding a previous policy at the end of the previously issued policy period not to be a refusal to renew when it is delivered by the same insurer or an affiliate or subsidiary.

Part IV. Amendment to the Definition of Small Employer

Section 12 would amend the definition of small employer in G.S. 58-50-110 to conform to the federal definition of small employer.

Part V. Technical Corrections

Sections 13 and 14 make changes to the effective dates of S.L. 2015-146 (Insurance Technical Changes-AB) and 2015-101 (Surplus Lines Amendments).

EFFECTIVE DATE: Sections 1 and 2 of Part I of this act become effective on the operative date of the manual of valuation instructions adopted by the National Association of Insurance Commissioners as provided in G.S. 58-58-51. The remainder of Part I of this act is effective when it becomes law. Section 9 of Part II of this act becomes effective on January 1, 2016. The remainder of Part II of this act is effective when it becomes law. Part III of this act is effective when it becomes law. Part IV of this act becomes effective on January 1, 2016. Part V of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 173
Committee Substitute Favorable 3/17/15
Third Edition Engrossed 3/24/15
Senate Judiciary II Committee Substitute Adopted 7/23/15

Short Title: Omnibus Criminal Law Bill.

(Public)

Sponsors:

Referred to:

March 10, 2015

A BILL TO BE ENTITLED
AN ACT TO AMEND VARIOUS CRIMINAL LAWS FOR THE PURPOSE OF
IMPROVING TRIAL COURT EFFICIENCY.

The General Assembly of North Carolina enacts:

**PART I. EXTEND THE PERIOD OF TIME TO AVOID THE COURT COSTS FOR
FAILURE TO PAY**

SECTION 1.(a) G.S. 7A-304(a) reads as rewritten:

"(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected. No costs may be assessed when a case is dismissed. Only upon entry of a written order, supported by findings of fact and conclusions of law, determining that there is just cause, the court may (i) waive costs assessed under this section or (ii) waive or reduce costs assessed under subdivision (7), (8), (8a), (11), (12), or (13) of this section.

...

(6) For support of the General Court of Justice, the sum of two hundred dollars (\$200.00) is payable by a defendant who fails to appear to answer the charge as scheduled, unless within 20 days after the scheduled appearance, the person either appears in court to answer the charge or disposes of the charge pursuant to G.S. 7A-146, and the sum of fifty dollars (\$50.00) is payable by a defendant who fails to pay a fine, penalty, or costs within ~~20 days~~ 40 days of the date specified in the court's judgment. Upon a showing to the court that the defendant failed to appear because of an error or omission of a judicial official, a prosecutor, or a law-enforcement officer, the court shall waive the fee for failure to appear. These fees shall be remitted to the State Treasurer.

...."

SECTION 1.(b) G.S. 20-24.2(a) reads as rewritten:

"(a) The court must report to the Division the name of any person charged with a motor vehicle offense under this Chapter who:

(1) Fails to appear to answer the charge as scheduled, unless within 20 days after the scheduled appearance, he either appears in court to answer the charge or disposes of the charge pursuant to G.S. 7A-146; or



- (2) Fails to pay a fine, penalty, or costs within ~~20 days~~ 40 days of the date specified in the court's judgment."

SECTION 1.(c) This section becomes effective December 1, 2015, except that a failure to pay after 20 days occurring before the effective date of this act is not abated or affected by this act and the statutes that would be applicable but for this act remain applicable to that failure to pay.

PART II. DIRECT THE ADMINISTRATIVE OFFICE OF THE COURTS TO REPORT ON CERTAIN ORDERS OF REMAND FROM SUPERIOR COURT

SECTION 2. The Administrative Office of the Courts, in consultation with the Conference of Clerks of Superior Court, shall make any necessary modifications to its information systems to maintain records of all cases in which the defendant in a criminal case withdraws an appeal for trial de novo in superior court and the superior court judge has signed an order remanding the case to the district court and shall report on those remanded cases to the chairs of the Senate Appropriations Committee on Justice and Public Safety, the chairs of the House Appropriations Committee on Justice and Public Safety, and the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by February 1 of each year. The report shall (i) include the total number of remanded cases and also the total number of those cases for which the court has remitted costs and (ii) aggregate those totals by the district in which they were granted and by the name of each judge ordering remand. The Administrative Office of the Courts may obtain any information that may be needed from individual clerks of superior court in order to make the modifications necessary to maintain the records required under this section.

PART III. REVISE THE LAW AUTHORIZING A CHIEF DISTRICT COURT JUDGE TO DESIGNATE CERTAIN MAGISTRATES TO APPOINT COUNSEL/AUTHORIZE MAGISTRATES TO ACCEPT GUILTY PLEAS AND ENTER JUDGMENT FOR OFFENSE OF INTOXICATED AND DISRUPTIVE IN PUBLIC

SECTION 3.(a) G.S. 7A-146 reads as rewritten:

"§ 7A-146. Administrative authority and duties of chief district judge.

The chief district judge, subject to the general supervision of the Chief Justice of the Supreme Court, has administrative supervision and authority over the operation of the district courts and magistrates in his district. These powers and duties include, but are not limited to, the following:

- ...
- (11) Designating certain magistrates to appoint counsel and accept waivers of counsel pursuant to Article 36 of this Chapter. This designation ~~may only be given to magistrates who are duly licensed attorneys and~~ does not give any magistrate the authority ~~to: (i) to~~ appoint counsel or accept waivers of counsel for potentially capital offenses, as defined by rules adopted by the Office of Indigent Defense Services; ~~or (ii) accept a waiver of counsel.~~ Services.

...."

SECTION 3.(b) G.S. 7A-292 reads as rewritten:

"§ 7A-292. Additional powers of magistrates.

In addition to the jurisdiction and powers assigned in this Chapter to the magistrate in civil and criminal actions, each magistrate has the following additional powers:

- ...
- (15) When authorized by the chief district judge, as permitted in G.S. 7A-146(11), to provide for appointment of counsel and acceptance of waivers of counsel pursuant to Article 36 of this Chapter.

...."

SECTION 3.(c) G.S. 14-444 reads as rewritten:

"§ 14-444. Intoxicated and disruptive in public.

(a) It shall be unlawful for any person in a public place to be intoxicated and disruptive in any of the following ways:

- (1) Blocking or otherwise interfering with traffic on a highway or public vehicular area, or
- (2) Blocking or lying across or otherwise preventing or interfering with access to or passage across a sidewalk or entrance to a building, or
- (3) Grabbing, shoving, pushing or fighting others or challenging others to fight, or
- (4) Cursing or shouting at or otherwise rudely insulting others, or
- (5) Begging for money or other property.

(b) Any person who violates this section shall be guilty of a Class 3 misdemeanor. ~~Notwithstanding the provisions of G.S. 7A-273(1), a magistrate is not empowered to accept a guilty plea and enter judgment for this offense.~~

PART IV. AMENDMENT TO ADDRESS AND CLARIFY PROBATION REVOCATION APPEALS

SECTION 4. G.S. 15A-1347 is amended by adding a new subsection to read:

"(c) If a defendant appeals an activation of a sentence as a result of a finding of a violation of probation by the district or superior court, probation supervision will continue under the same conditions until the termination date of the supervision period or disposition of the appeal, whichever comes first."

PART V. CONFORM STATE LAW WITH THE UNITED STATES SUPREME COURT DECISIONS IN HALL V. FLORIDA AND BRUMFIELD V. CAIN

SECTION 5. G.S. 15A-2005 reads as rewritten:

~~"§ 15A-2005. Mentally retarded defendants; Intellectual disability; death sentence prohibited.~~

(a) (1) The following definitions apply in this section:

- a. ~~Mentally retarded.~~ Intellectual disability. – A condition marked by significantly—significantly subaverage general intellectual functioning, existing concurrently with significant limitations in adaptive functioning, both of which were manifested before the age of 18.
- b. Significant limitations in adaptive functioning. – Significant limitations in two or more of the following adaptive skill areas: communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure skills and work skills.
- c. Significantly subaverage general intellectual functioning. – An intelligence quotient of 70 or below.

(2) The defendant has the burden of proving significantly subaverage general intellectual functioning, significant limitations in adaptive functioning, and ~~that mental retardation~~ intellectual disability was manifested before the age of 18. An intelligence quotient of 70 or below on an individually administered, scientifically recognized standardized intelligence quotient test administered by a licensed psychiatrist or psychologist is evidence of significantly subaverage general intellectual functioning; however, it is not sufficient, without evidence of significant limitations in adaptive functioning

and without evidence of manifestation before the age of 18, to establish that the defendant is ~~mentally retarded~~ has an intellectual disability. An intelligence quotient of 70, as described in this subdivision, is approximate and a higher score resulting from the application of the standard error of measurement to an intelligence quotient of 70 shall not preclude the defendant from being able to present additional evidence of intellectual disability, including testimony regarding adaptive deficits. Accepted clinical standards for diagnosing significant limitations in intellectual functioning and adaptive behavior shall be applied in the determination of intellectual disability.

(b) Notwithstanding any provision of law to the contrary, no defendant ~~who is mentally retarded with an intellectual disability~~ shall be sentenced to death.

(c) Upon motion of the defendant, supported by appropriate affidavits, the court may order a pretrial hearing to determine if the defendant is ~~mentally retarded~~ has an intellectual disability. The court shall order such a hearing with the consent of the State. The defendant has the burden of production and persuasion to demonstrate ~~mental retardation~~ intellectual disability by clear and convincing evidence. If the court determines that the defendant to be mentally retarded, has an intellectual disability, the court shall declare the case noncapital, and the State may not seek the death penalty against the defendant.

(d) The pretrial determination of the court shall not preclude the defendant from raising any legal defense during the trial.

(e) If the court does not find that the defendant to be mentally retarded has an intellectual disability in the pretrial proceeding, upon the introduction of evidence ~~of the defendant's mental retardation~~ raising the issue of intellectual disability during the sentencing hearing, the court shall submit a special issue to the jury as to whether the defendant ~~is mentally retarded~~ has an intellectual disability as defined in this section. This special issue shall be considered and answered by the jury prior to the consideration of aggravating or mitigating factors and the determination of sentence. If the jury determines that the defendant to be mentally retarded, has an intellectual disability, the court shall declare the case noncapital and the defendant shall be sentenced to life imprisonment.

(f) The defendant has the burden of production and persuasion to demonstrate ~~mental retardation~~ intellectual disability to the jury by a preponderance of the evidence.

(g) If the jury determines that the defendant ~~is not mentally retarded~~ does not have an intellectual disability as defined by this section, the jury may consider any evidence of ~~mental retardation~~ intellectual disability presented during the sentencing hearing when determining aggravating or mitigating factors and the defendant's sentence.

(h) The provisions of this section do not preclude the sentencing of a ~~mentally retarded~~ an offender with an intellectual disability to any other sentence authorized by G.S. 14-17 for the crime of murder in the first degree."

PART VI. PROVIDE THAT THE REQUIREMENT FOR A PERSON CONVICTED OF SEXUAL BATTERY TO REGISTER AS A SEX OFFENDER IS DISCRETIONARY WITH THE COURT

SECTION 6.(a) G.S. 14-27.5A is amended by adding a new subsection to read:

"(c) When a person is convicted of a violation of this section, the sentencing court shall consider whether the person is a danger to the community and whether requiring the person to register as a sex offender pursuant to Article 27A of this Chapter would further the purposes of that Article as stated in G.S. 14-208.5. If the sentencing court finds that the person is a danger to the community and that the person shall register, then an order shall be entered requiring the person to register."

SECTION 6.(b) G.S. 14-208.6(4) reads as rewritten:

"(4) "Reportable conviction" means:

...

f. A final conviction for a violation of G.S. 14-27.5A, only if the court sentencing the individual issues an order pursuant to G.S. 14-27.5A(c) requiring the individual to register."

SECTION 6.(c) G.S. 14-208.6(5) reads as rewritten:

"(5) "Sexually violent offense" means a violation of G.S. 14-27.2 (first degree rape), G.S. 14-27.2A (rape of a child; adult offender), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first degree sexual offense), G.S. 14-27.4A (sex offense with a child; adult offender), G.S. 14-27.5 (second degree sexual offense), ~~G.S. 14-27.5A (sexual battery)~~, former G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.7 (intercourse and sexual offense with certain victims), G.S. 14-27.7A(a) (statutory rape or sexual offense of person who is 13-, 14-, or 15-years-old where the defendant is at least six years older), G.S. 14-43.11 (human trafficking) if (i) the offense is committed against a minor who is less than 18 years of age or (ii) the offense is committed against any person with the intent that they be held in sexual servitude, G.S. 14-43.13 (subjecting or maintaining a person for sexual servitude), G.S. 14-178 (incest between near relatives), G.S. 14-190.6 (employing or permitting minor to assist in offenses against public morality and decency), G.S. 14-190.9(a1) (felonious indecent exposure), G.S. 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third degree sexual exploitation of a minor), G.S. 14-202.1 (taking indecent liberties with children), G.S. 14-202.3 (Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act), G.S. 14-202.4(a) (taking indecent liberties with a student), G.S. 14-205.2(c) or (d) (patronizing a prostitute who is a minor or a mentally disabled person), G.S. 14-205.3(b) (promoting prostitution of a minor or a mentally disabled person), G.S. 14-318.4(a1) (parent or caretaker commit or permit act of prostitution with or by a juvenile), or G.S. 14-318.4(a2) (commission or allowing of sexual act upon a juvenile by parent or guardian). The term also includes the following: a solicitation or conspiracy to commit any of these offenses; aiding and abetting any of these offenses."

SECTION 6.(d) G.S. 50-13.1(a1) reads as rewritten:

"(a1) Notwithstanding any other provision of law, any person instituting an action or proceeding for custody ex parte who has been convicted of a sexually violent offense as defined in G.S. 14-208.6(5) or who has been convicted of an offense under G.S. 14-27.5A and ordered to register under Article 27A of Chapter 14 of the General Statutes shall disclose the conviction in the pleadings."

SECTION 6.(e) This section becomes effective December 1, 2015, and applies to offenses committed on or after that date.

PART VII. MAKE CONFORMING CHANGE TO PETITION FOR JUDICIAL REVIEW

SECTION 7. G.S. 7B-323(f) reads as rewritten:

"(f) A party may appeal the district court's decision under ~~G.S. 7A-27(e)~~. G.S. 7A-27(b)(2)."

PART VIII. EXPUNCTION INFORMATION MAY BE TRANSMITTED ELECTRONICALLY OR BY FACSIMILE

1 **SECTION 8.** G.S. 15A-150 reads as rewritten:

2 **"§ 15A-150. Notification requirements.**

3 (a) Notification to AOC. – The clerk of superior court in each county in North Carolina
4 shall, as soon as practicable after each term of court, file with the Administrative Office of the
5 Courts the names of the following:

- 6 (1) Persons granted an expunction under this Article.
7 (2) Persons granted a conditional discharge under G.S. 14-50.29.
8 (3) Persons granted a conditional discharge under G.S. 90-96 or G.S. 90-113.14.
9 (4) Repealed by Session Laws 2010-174, s. 7, effective October 1, 2010.
10 (5) Persons granted a conditional discharge under G.S. 14-204.

11 (b) Notification to Other State and Local Agencies. – The Unless otherwise instructed
12 by the Administrative Office of the Courts pursuant to an agreement entered into under
13 subsection (e) of this section for the electronic or facsimile transmission of information, the
14 clerk of superior court in each county in North Carolina shall send a certified copy of an order
15 granting an expunction to a person named in subsection (a) of this section to all of the agencies
16 listed in this subsection. An agency receiving an order under this subsection shall expunge from
17 its records all entries made as a result of the charge or conviction ordered expunged, except as
18 provided in G.S. 15A-151. The list of agencies is as follows:

- 19 (1) The sheriff, chief of police, or other arresting agency.
20 (2) When applicable, the Division of Motor Vehicles and the Division of Adult
21 Correction of the Department of Public Safety.
22 (3) Any State or local agency identified by the petition as bearing record of the
23 offense that has been expunged.
24 (4) The Department of Public Safety.

25 (c) Notification to FBI. – The Department of Public Safety shall forward the order
26 received under this section to the Federal Bureau of Investigation.

27 (d) Notification to Private Entities. – A State agency that receives a certified copy of an
28 order under this section shall notify any private entity with which it has a licensing agreement
29 for bulk extracts of data from the agency criminal record database to delete the record in
30 question. The private entity shall notify any other entity to which it subsequently provides in a
31 bulk extract data from the agency criminal database to delete the record in question from its
32 database.

33 (e) The Director of the Administrative Office of the Courts may enter into an agreement
34 with any of the State agencies listed in subsection (b) of this section for electronic or facsimile
35 transmission of any information that must be provided under this section."

36
37 **PART IX. DOUBLING OF BOND IS PERMISSIVE RATHER THAN MANDATORY**
38 **FOR CERTAIN DEFENDANTS**

39 **SECTION 9.(a)** G.S. 15A-534(d3) reads as rewritten:

40 "(d3) When conditions of pretrial release are being determined for a defendant who is
41 charged with an offense and the defendant is currently on pretrial release for a prior offense, the
42 judicial official ~~shall~~ may require the execution of a secured appearance bond in an amount at
43 least double the amount of the most recent previous secured or unsecured bond for the charges
44 or, if no bond has yet been required for the charges, in the amount of at least one thousand
45 dollars (\$1,000)."

46 **SECTION 9.(b)** This section becomes effective October 1, 2015, and applies to
47 conditions of pretrial release imposed on or after that date.

48
49 **PART X. DISPOSITION OF CERTAIN PHYSICAL EVIDENCE THAT MAY**
50 **CONTAIN BIOLOGICAL EVIDENCE**

51 **SECTION 10.(a)** G.S. 15A-268(a5) reads as rewritten:

1 "(a5) The duty to preserve may not be waived knowingly and voluntarily by a defendant,
2 without a court ~~proceeding~~ hearing, which may include any other hearing associated with the
3 disposition of the case."

4 **SECTION 10.(b)** G.S. 15A-268(a6) reads as rewritten:

5 "(a6) The evidence described by subsection (a1) of this section shall be preserved for the
6 following period:

- 7 (1) For conviction resulting in a sentence of death, until execution.
- 8 (2) For conviction resulting in a sentence of life without parole, until the death
9 of the convicted person.
- 10 (3) For conviction of any homicide, sex offense, assault, kidnapping, burglary,
11 robbery, arson or burning, for which a Class B1-E felony punishment is
12 imposed, the evidence shall be preserved during the period of incarceration
13 and mandatory supervised release, including sex offender registration
14 pursuant to Article 27A of Chapter 14 of the General Statutes, except in
15 cases where the person convicted entered and was convicted on a plea of
16 guilty, in which case the evidence shall be preserved for the earlier of three
17 years from the date of conviction or until released.
- 18 (4) Biological evidence collected as part of a criminal investigation of any
19 homicide or rape, in which no charges are filed, shall be preserved for the
20 period of time that the crime remains unsolved.
- 21 (5) A custodial agency in custody of biological evidence unrelated to a criminal
22 investigation or prosecution referenced by subdivision (1), (2), (3), or (4) of
23 this subsection may dispose of the evidence in accordance with the rules of
24 the agency.
- 25 (6) Notwithstanding the retention requirements in subdivisions (1) through (5)
26 of this subsection, at any time after collection and prior to or at the time of
27 disposition of the case at the trial court level, if the evidence collected as part
28 of the criminal investigation is of a size, bulk, or physical character as to
29 render retention impracticable or should be returned to its rightful owner, the
30 State may petition the court for retention of samples of the biological
31 evidence in lieu of the actual physical evidence. After giving any defendant
32 charged in connection with the case an opportunity to be heard, the court
33 may order that the collecting agency take reasonable measures to remove or
34 preserve for retention portions of evidence likely to contain biological
35 evidence related to the offense through cuttings, swabs, or other means
36 consistent with Crime Laboratory minimum guidelines in a quantity
37 sufficient to permit DNA testing before returning or disposing of the
38 evidence."

39 **SECTION 10.(c)** This section becomes effective October 1, 2015.

40
41 **PART XI. AMEND THE RULES OF EVIDENCE TO ALLOW A CERTIFICATION BY**
42 **THE CUSTODIAN OF A BUSINESS RECORD TO SHOW THE AUTHENTICITY OF**
43 **THE RECORD IN LIEU OF OFFERING THE CUSTODIAN'S IN-PERSON**
44 **TESTIMONY**

45 **SECTION 11.(a)** Rule 803(6) of the Rules of Evidence, Chapter 8C of the General
46 Statutes, reads as rewritten:

47 **"Rule 803. Hearsay exceptions; availability of declarant immaterial.**

48 The following are not excluded by the hearsay rule, even though the declarant is available
49 as a witness:

50 ...

(6) Records of Regularly Conducted Activity. – A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if (i) kept in the course of a regularly conducted business activity, activity and if (ii) it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, witness, or by affidavit or by document under seal under Rule 902 of the Rules of Evidence made by the custodian or witness, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness. Authentication of evidence by affidavit shall be confined to the records of nonparties, and the proponent of that evidence shall give advance notice to all other parties of intent to offer the evidence with authentication by affidavit. The term "business" as used in this paragraph includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit."

SECTION 11.(b) This section becomes effective October 1, 2015.

PART XII. AMEND CERTIFICATE OF RELIEF

SECTION 12.(a) G.S. 15A-173.2(a) reads as rewritten:

"(a) An individual who is convicted of ~~no more than two Class G, H, or I felonies or misdemeanors in one session of court, and who has no other convictions for a felony or misdemeanor other than a traffic violation,~~ criminal offenses no higher than a Class G felony, may petition the court where the individual was convicted of his or her most serious offense for a Certificate of Relief relieving collateral consequences as permitted by this Article. Except as otherwise provided in this subsection, the petition shall be heard by the senior resident superior court judge if the convictions were in superior court, or the chief district court judge if the convictions were in district court. The senior resident superior court judge and chief district court judge in each district may delegate their authority to hold hearings and issue, modify, or revoke Certificates of Relief to judges, clerks, or magistrates in that district."

SECTION 12.(b) This section becomes effective October 1, 2015, and applies to petitions filed on or after that date.

PART XIII. EFFECTIVE DATE

SECTION 13. Except as otherwise provided, this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

D

HOUSE BILL 173
Committee Substitute Favorable 3/17/15
Third Edition Engrossed 3/24/15
Senate Judiciary II Committee Substitute Adopted 7/23/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H173-CSTJ-58 [v.1]
9/15/2015 7:03:21 PM

Short Title: Omnibus Criminal Law Bill.

(Public)

Sponsors:

Referred to:

March 10, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND VARIOUS CRIMINAL LAWS FOR THE PURPOSE OF
3 IMPROVING TRIAL COURT EFFICIENCY.

4 The General Assembly of North Carolina enacts:

5
6 **PART I. EXTEND THE PERIOD OF TIME TO AVOID THE COURT COSTS FOR**
7 **FAILURE TO PAY**

8 **SECTION 1.(a)** G.S. 7A-304(a) reads as rewritten:

9 "(a) In every criminal case in the superior or district court, wherein the defendant is
10 convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the
11 prosecuting witness, the following costs shall be assessed and collected. No costs may be
12 assessed when a case is dismissed. Only upon entry of a written order, supported by findings of
13 fact and conclusions of law, determining that there is just cause, the court may (i) waive costs
14 assessed under this section or (ii) waive or reduce costs assessed under subdivision (7), (8),
15 (8a), (11), (12), or (13) of this section.

16 ...

17 (6) For support of the General Court of Justice, the sum of two hundred dollars
18 (\$200.00) is payable by a defendant who fails to appear to answer the charge
19 as scheduled, unless within 20 days after the scheduled appearance, the
20 person either appears in court to answer the charge or disposes of the charge
21 pursuant to G.S. 7A-146, and the sum of fifty dollars (\$50.00) is payable by
22 a defendant who fails to pay a fine, penalty, or costs within ~~20 days~~ 40 days
23 of the date specified in the court's judgment. Upon a showing to the court
24 that the defendant failed to appear because of an error or omission of a
25 judicial official, a prosecutor, or a law-enforcement officer, the court shall
26 waive the fee for failure to appear. These fees shall be remitted to the State
27 Treasurer.

28"

29 **SECTION 1.(b)** G.S. 20-24.2(a) reads as rewritten:

30 "(a) The court must report to the Division the name of any person charged with a motor
31 vehicle offense under this Chapter who:



★ H 1 7 3 - C S T J - 5 8 - V - 1 ★



- (1) Fails to appear to answer the charge as scheduled, unless within 20 days after the scheduled appearance, he either appears in court to answer the charge or disposes of the charge pursuant to G.S. 7A-146; or
- (2) Fails to pay a fine, penalty, or costs within ~~20 days~~ 40 days of the date specified in the court's judgment."

SECTION 1.(c) This section becomes effective December 1, 2015, except that a failure to pay after 20 days occurring before the effective date of this act is not abated or affected by this act and the statutes that would be applicable but for this act remain applicable to that failure to pay.

PART II. DIRECT THE ADMINISTRATIVE OFFICE OF THE COURTS TO REPORT ON CERTAIN ORDERS OF REMAND FROM SUPERIOR COURT

SECTION 2. The Administrative Office of the Courts, in consultation with the Conference of Clerks of Superior Court, shall make any necessary modifications to its information systems to maintain records of all cases in which the defendant in a criminal case withdraws an appeal for trial de novo in superior court and the superior court judge has signed an order remanding the case to the district court and shall report on those remanded cases to the chairs of the Senate Appropriations Committee on Justice and Public Safety, the chairs of the House Appropriations Committee on Justice and Public Safety, and the chairs of the Joint Legislative Oversight Committee on Justice and Public Safety by February 1 of each year. The report shall (i) include the total number of remanded cases and also the total number of those cases for which the court has remitted costs and (ii) aggregate those totals by the district in which they were granted and by the name of each judge ordering remand. The Administrative Office of the Courts may obtain any information that may be needed from individual clerks of superior court in order to make the modifications necessary to maintain the records required under this section.

PART III. REVISE THE LAW AUTHORIZING A CHIEF DISTRICT COURT JUDGE TO DESIGNATE CERTAIN MAGISTRATES TO APPOINT COUNSEL/AUTHORIZE MAGISTRATES TO ACCEPT GUILTY PLEAS AND ENTER JUDGMENT FOR OFFENSE OF INTOXICATED AND DISRUPTIVE IN PUBLIC

SECTION 3.(a) G.S. 7A-146 reads as rewritten:

"§ 7A-146. Administrative authority and duties of chief district judge.

The chief district judge, subject to the general supervision of the Chief Justice of the Supreme Court, has administrative supervision and authority over the operation of the district courts and magistrates in his district. These powers and duties include, but are not limited to, the following:

- ...
- (11) Designating certain magistrates to appoint counsel and accept waivers of counsel pursuant to Article 36 of this Chapter. This designation ~~may only be given to magistrates who are duly licensed attorneys and~~ does not give any magistrate the authority to: ~~(i) to appoint counsel or accept waivers of counsel for potentially capital offenses, as defined by rules adopted by the Office of Indigent Defense Services; or (ii) accept a waiver of~~ counsel. Services.
- ..."

SECTION 3.(b) G.S. 7A-292 reads as rewritten:

"§ 7A-292. Additional powers of magistrates.

In addition to the jurisdiction and powers assigned in this Chapter to the magistrate in civil and criminal actions, each magistrate has the following additional powers:

...



- (15) When authorized by the chief district judge, as permitted in G.S. 7A-146(11), to provide for appointment of counsel and acceptance of waivers of counsel pursuant to Article 36 of this Chapter.

...."

SECTION 3.(c) G.S. 14-444 reads as rewritten:

"§ 14-444. Intoxicated and disruptive in public.

(a) It shall be unlawful for any person in a public place to be intoxicated and disruptive in any of the following ways:

- (1) Blocking or otherwise interfering with traffic on a highway or public vehicular area, or
- (2) Blocking or lying across or otherwise preventing or interfering with access to or passage across a sidewalk or entrance to a building, or
- (3) Grabbing, shoving, pushing or fighting others or challenging others to fight, or
- (4) Cursing or shouting at or otherwise rudely insulting others, or
- (5) Begging for money or other property.

(b) Any person who violates this section shall be guilty of a Class 3 misdemeanor. ~~Notwithstanding the provisions of G.S. 7A-273(1), a magistrate is not empowered to accept a guilty plea and enter judgment for this offense."~~

PART IV. AMENDMENT TO ADDRESS AND CLARIFY PROBATION REVOCATION APPEALS

SECTION 4. G.S. 15A-1347 is amended by adding a new subsection to read:

"(c) If a defendant appeals an activation of a sentence as a result of a finding of a violation of probation by the district or superior court, probation supervision will continue under the same conditions until the termination date of the supervision period or disposition of the appeal, whichever comes first."

PART V. CONFORM STATE LAW WITH THE UNITED STATES SUPREME COURT DECISIONS IN HALL V. FLORIDA AND BRUMFIELD V. CAIN

SECTION 5. G.S. 15A-2005 reads as rewritten:

"§ 15A-2005. ~~Mentally retarded defendants;~~ Intellectual disability; death sentence prohibited.

(a) (1) The following definitions apply in this section:

- a. ~~Mentally retarded.~~ Intellectual disability. – A condition marked by ~~Significantly—significantly~~ subaverage general intellectual functioning, existing concurrently with significant limitations in adaptive functioning, both of which were manifested before the age of 18.
- b. Significant limitations in adaptive functioning. – Significant limitations in two or more of the following adaptive skill areas: communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure skills and work skills.
- c. Significantly subaverage general intellectual functioning. – An intelligence quotient of 70 or below.

(2) The defendant has the burden of proving significantly subaverage general intellectual functioning, significant limitations in adaptive functioning, and that ~~mental retardation~~ intellectual disability was manifested before the age of 18. An intelligence quotient of 70 or below on an individually administered, scientifically recognized standardized intelligence quotient test



administered by a licensed psychiatrist or psychologist is evidence of significantly subaverage general intellectual functioning; however, it is not sufficient, without evidence of significant limitations in adaptive functioning and without evidence of manifestation before the age of 18, to establish that the defendant ~~is mentally retarded~~ has an intellectual disability. An intelligence quotient of 70, as described in this subdivision, is approximate and a higher score resulting from the application of the standard error of measurement to an intelligence quotient of 70 shall not preclude the defendant from being able to present additional evidence of intellectual disability, including testimony regarding adaptive deficits. Accepted clinical standards for diagnosing significant limitations in intellectual functioning and adaptive behavior shall be applied in the determination of intellectual disability.

(b) Notwithstanding any provision of law to the contrary, no defendant ~~who is mentally retarded with an intellectual disability~~ shall be sentenced to death.

(c) Upon motion of the defendant, supported by appropriate affidavits, the court may order a pretrial hearing to determine if the defendant ~~is mentally retarded~~ has an intellectual disability. The court shall order such a hearing with the consent of the State. The defendant has the burden of production and persuasion to demonstrate ~~mental retardation intellectual disability~~ by clear and convincing evidence. If the court determines that the defendant to be mentally retarded, has an intellectual disability, the court shall declare the case noncapital, and the State may not seek the death penalty against the defendant.

(d) The pretrial determination of the court shall not preclude the defendant from raising any legal defense during the trial.

(e) If the court does not find that the defendant to be mentally retarded has an intellectual disability in the pretrial proceeding, upon the introduction of evidence ~~of the defendant's mental retardation raising the issue of intellectual disability~~ during the sentencing hearing, the court shall submit a special issue to the jury as to whether the defendant ~~is mentally retarded has an intellectual disability~~ as defined in this section. This special issue shall be considered and answered by the jury prior to the consideration of aggravating or mitigating factors and the determination of sentence. If the jury determines that the defendant to be mentally retarded, has an intellectual disability, the court shall declare the case noncapital and the defendant shall be sentenced to life imprisonment.

(f) The defendant has the burden of production and persuasion to demonstrate ~~mental retardation intellectual disability~~ to the jury by a preponderance of the evidence.

(g) If the jury determines that the defendant ~~is not mentally retarded does not have an intellectual disability~~ as defined by this section, the jury may consider any evidence of ~~mental retardation intellectual disability~~ presented during the sentencing hearing when determining aggravating or mitigating factors and the defendant's sentence.

(h) The provisions of this section do not preclude the sentencing of ~~a mentally retarded~~ an offender with an intellectual disability to any other sentence authorized by G.S. 14-17 for the crime of murder in the first degree."

PART VII. MAKE CONFORMING CHANGE TO PETITION FOR JUDICIAL REVIEW

SECTION 7. G.S. 7B-323(f) reads as rewritten:

"(f) A party may appeal the district court's decision under G.S. 7A-27(e)-G.S. 7A-27(b)(2)."

PART VIII. EXPUNCTION INFORMATION MAY BE TRANSMITTED ELECTRONICALLY OR BY FACSIMILE



SECTION 8. G.S. 15A-150 reads as rewritten:**"§ 15A-150. Notification requirements.**

(a) Notification to AOC. – The clerk of superior court in each county in North Carolina shall, as soon as practicable after each term of court, file with the Administrative Office of the Courts the names of the following:

- (1) Persons granted an expunction under this Article.
- (2) Persons granted a conditional discharge under G.S. 14-50.29.
- (3) Persons granted a conditional discharge under G.S. 90-96 or G.S. 90-113.14.
- (4) Repealed by Session Laws 2010-174, s. 7, effective October 1, 2010.
- (5) Persons granted a conditional discharge under G.S. 14-204.

(b) Notification to Other State and Local Agencies. – ~~The~~ Unless otherwise instructed by the Administrative Office of the Courts pursuant to an agreement entered into under subsection (e) of this section for the electronic or facsimile transmission of information, the clerk of superior court in each county in North Carolina shall send a certified copy of an order granting an expunction to a person named in subsection (a) of this section to all of the agencies listed in this subsection. An agency receiving an order under this subsection shall expunge from its records all entries made as a result of the charge or conviction ordered expunged, except as provided in G.S. 15A-151. The list of agencies is as follows:

- (1) The sheriff, chief of police, or other arresting agency.
- (2) When applicable, the Division of Motor Vehicles and the Division of Adult Correction of the Department of Public Safety.
- (3) Any State or local agency identified by the petition as bearing record of the offense that has been expunged.
- (4) The Department of Public Safety.

(c) Notification to FBI. – The Department of Public Safety shall forward the order received under this section to the Federal Bureau of Investigation.

(d) Notification to Private Entities. – A State agency that receives a certified copy of an order under this section shall notify any private entity with which it has a licensing agreement for bulk extracts of data from the agency criminal record database to delete the record in question. The private entity shall notify any other entity to which it subsequently provides in a bulk extract data from the agency criminal database to delete the record in question from its database.

(e) The Director of the Administrative Office of the Courts may enter into an agreement with any of the State agencies listed in subsection (b) of this section for electronic or facsimile transmission of any information that must be provided under this section."

PART IX. DOUBLING OF BOND IS PERMISSIVE RATHER THAN MANDATORY FOR CERTAIN DEFENDANTS**SECTION 9.(a)** G.S. 15A-534(d3) reads as rewritten:

"(d3) When conditions of pretrial release are being determined for a defendant who is charged with an offense and the defendant is currently on pretrial release for a prior offense, the judicial official ~~shall~~ may require the execution of a secured appearance bond in an amount at least double the amount of the most recent previous secured or unsecured bond for the charges or, if no bond has yet been required for the charges, in the amount of at least one thousand dollars (\$1,000)."

SECTION 9.(b) This section becomes effective October 1, 2015, and applies to conditions of pretrial release imposed on or after that date.

PART X. DISPOSITION OF CERTAIN PHYSICAL EVIDENCE THAT MAY CONTAIN BIOLOGICAL EVIDENCE**SECTION 10.(a)** G.S. 15A-268(a5) reads as rewritten:



"(a5) The duty to preserve may not be waived knowingly and voluntarily by a defendant, without a court ~~proceeding-hearing, which may include any other hearing associated with the disposition of the case.~~"

SECTION 10.(b) G.S. 15A-268(a6) reads as rewritten:

"(a6) The evidence described by subsection (a1) of this section shall be preserved for the following period:

- (1) For conviction resulting in a sentence of death, until execution.
- (2) For conviction resulting in a sentence of life without parole, until the death of the convicted person.
- (3) For conviction of any homicide, sex offense, assault, kidnapping, burglary, robbery, arson or burning, for which a Class B1-E felony punishment is imposed, the evidence shall be preserved during the period of incarceration and mandatory supervised release, including sex offender registration pursuant to Article 27A of Chapter 14 of the General Statutes, except in cases where the person convicted entered and was convicted on a plea of guilty, in which case the evidence shall be preserved for the earlier of three years from the date of conviction or until released.
- (4) Biological evidence collected as part of a criminal investigation of any homicide or rape, in which no charges are filed, shall be preserved for the period of time that the crime remains unsolved.
- (5) A custodial agency in custody of biological evidence unrelated to a criminal investigation or prosecution referenced by subdivision (1), (2), (3), or (4) of this subsection may dispose of the evidence in accordance with the rules of the agency.
- (6) Notwithstanding the retention requirements in subdivisions (1) through (5) of this subsection, at any time after collection and prior to or at the time of disposition of the case at the trial court level, if the evidence collected as part of the criminal investigation is of a size, bulk, or physical character as to render retention impracticable or should be returned to its rightful owner, the State may petition the court for retention of samples of the biological evidence in lieu of the actual physical evidence. After giving any defendant charged in connection with the case an opportunity to be heard, the court may order that the collecting agency take reasonable measures to remove or preserve for retention portions of evidence likely to contain biological evidence related to the offense through cuttings, swabs, or other means consistent with Crime Laboratory minimum guidelines in a quantity sufficient to permit DNA testing before returning or disposing of the evidence.

SECTION 10.(c) This section becomes effective October 1, 2015.

PART XI. AMEND THE RULES OF EVIDENCE TO ALLOW A CERTIFICATION BY THE CUSTODIAN OF A BUSINESS RECORD TO SHOW THE AUTHENTICITY OF THE RECORD IN LIEU OF OFFERING THE CUSTODIAN'S IN-PERSON TESTIMONY

SECTION 11.(a) Rule 803(6) of the Rules of Evidence, Chapter 8C of the General Statutes, reads as rewritten:

"Rule 803. Hearsay exceptions; availability of declarant immaterial.

The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

...



(6) Records of Regularly Conducted Activity. – A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if (i) kept in the course of a regularly conducted business ~~activity, activity~~ and ~~if (ii) it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, witness, or by affidavit or by document under seal under Rule 902 of the Rules of Evidence made by the custodian or witness, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness. Authentication of evidence by affidavit shall be confined to the records of nonparties, and the proponent of that evidence shall give advance notice to all other parties of intent to offer the evidence with authentication by affidavit.~~ The term "business" as used in this paragraph includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit."

SECTION 11.(b) This section becomes effective October 1, 2015.

PART XIII. BAIL BOND CONTINUING EDUCATION

SECTION 13.(a) G.S. 58-71-1 reads as rewritten:

"§ 58-71-1. Definitions.

The following definitions apply in this Article:

...

(1a) Approved provider. – A person or entity whose certificate of authority issued by the Commissioner to provide either bail bond continuing education or prelicensing courses in this state in accordance with G.S. 58-71-72 was in effect on May 15, 2015. The certificate of authority issued by the Commissioner to any such person or entity is not transferable or assignable to any other person or entity nor are the benefits or any part thereof transferable or assignable to any other person or entity.

...."

SECTION 13.(b) G.S. 58-71-71 reads as rewritten:

"§ 58-71-71. Examination; educational requirements; penalties.

(a) In order to be eligible to take the examination required to be licensed as a runner or bail bondsman under G.S. 58-71-70, each person shall complete at least 12 hours of education as provided by ~~the North Carolina Bail Agents Association~~ an approved provider in subjects pertinent to the duties and responsibilities of a runner or bail bondsman, including all laws and regulations related to being a runner or bail bondsman.

(b) Each year every licensee shall complete at least three hours of continuing education as provided by ~~the North Carolina Bail Agents Association~~ an approved provider in subjects related to the duties and responsibilities of a runner or bail bondsman before renewal of the license. This continuing education shall not include a written or oral examination. A person who receives his first license on or after January 1 of any year does not have to comply with this subsection until the period between his first and second license renewals.

...

(d) Educational courses offered by ~~the North Carolina Bail Agents Association~~ an approved provider under this section must be approved by the Commissioner before they may be offered. Before approving a course, the Commissioner must be satisfied that the course will enhance the professional competence and professional responsibility of bail bondsmen and runners. ~~The North Carolina Bail Agents Association~~ Approved providers shall not offer, sponsor, or conduct any course under this section unless the Commissioner has given

1 authorization to do so. The Commissioner shall not authorize educational courses to be offered
2 solely online.

3"

4 **SECTION 13.(c)** This section becomes effective October 1, 2015.

5
6 **PART IX. EFFECTIVE DATE**

7 **SECTION 14.** Except as otherwise provided, this act is effective when it becomes
8 law.





HOUSE BILL 173: Omnibus Criminal Law Bill

2015-2016 General Assembly

Committee: Rules and Operations of the Senate
Introduced by: Reps. Stam, Faircloth, Glazier, R. Turner
Analysis of: PCS to Fourth Edition
H173-CSTJ-58

Date: September 15, 2015
Prepared by: Janice Paul
Committee Counsel

SUMMARY: *The Proposed Committee Substitute (PCS) for House Bill 173 would amend various criminal laws. The PCS deletes Part VI (sexual battery) and Part XII (certificate of relief), and adds Section XIII pertaining to bail bond continuing education.*

BILL ANALYSIS:

PART I: EXTEND THE PERIOD OF TIME TO AVOID THE COURT COSTS FOR FAILURE TO PAY

Section 1 of the PCS would extend from 20 days to 40 days the period of time allowed beyond the court-established due date to pay a fine, penalty, or costs. This section becomes effective December 1, 2015, except that a failure to pay after 20 days occurring before the effective date of this act is not abated or affected by this act and the statutes that would be applicable but for this act remain applicable to that failure to pay.

PART II: DIRECT THE ADMINISTRATIVE OFFICE OF THE COURTS TO REPORT ON CERTAIN ORDERS OF REMAND FROM SUPERIOR COURT

Section 2 would require the Administrative Office of the Courts (AOC) to maintain records of all criminal cases when a defendant in a criminal case withdraws an appeal for trial de novo in superior court and the superior court judge has signed an order remanding the case to the district court. AOC would be required to report that information, including the number of cases for which costs were remitted by district and judge, to the Chairs of the House and Senate Appropriations Committees on Justice and Public Safety, and the Joint Legislative Oversight Committee on Justice and Public Safety by February 1 of each year.

PART III: REVISE THE LAW AUTHORIZING A CHIEF DISTRICT COURT JUDGE TO DESIGNATE CERTAIN MAGISTRATES TO APPOINT COUNSEL/AUTHORIZE MAGISTRATES TO ACCEPT GUILTY PLEAS AND ENTER JUDGMENT FOR OFFENSE OF INTOXICATED AND DISRUPTIVE IN PUBLIC

Section 3 would allow a chief district court judge to authorize any magistrate to appoint counsel and accept waivers of counsel for non-capital offenses. (Currently, only magistrates who are attorneys may be designated to appoint counsel and no magistrates may accept waivers of counsel.)

This section would also remove the restriction that prohibits magistrates from accepting guilty pleas and entering judgment for offenses of Intoxicated and Disruptive in Public pursuant to G.S. 14-444.

PART IV: AMENDMENT TO ADDRESS AND CLARIFY PROBATION REVOCATION APPEALS

Section 4 would create a new G.S. 15A-1347(c) to provide that if a defendant appeals an activation of a sentence based on a probation violation, probation supervision will continue under the same conditions until the specified time.

O. Walker Reagan
Director



* H 1 7 3 - S M T J - 1 1 8 C S T J - 5 8 - V 2 *

Research Division
(919) 733-2578



House Bill 173

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PART V: CONFORM STATE LAW WITH THE UNITED STATES SUPREME COURT DECISIONS IN HALL v. FLORIDA AND BRUMFIELD v. CAIN

Section 5 would conform State law to the U.S. Supreme Court decisions in *Hall v. Florida* and *Brumfield v. Cain*. Specifically, this section would change the term "mental retardation" to "intellectual disability" and would clarify that an IQ of 70 is approximate and a higher score resulting from the application of the standard error of measurement does not prevent the defendant from being able to present additional evidence of intellectual disability.

PART VII: MAKE CONFORMING CHANGE TO PETITION FOR JUDICIAL REVIEW

Section 7 of the PCS amends G.S. 7B-323(f) to make a conforming change to a provision in the Juvenile Code relating to judicial review.

PART VIII: EXPUNCTION INFORMATION MAY BE TRANSMITTED ELECTRONICALLY OR BY FACSIMILE

Section 8 would authorize AOC to send expunction orders by electronic or facsimile transmission to the State and local agencies required by statute to receive notice.

PART IX: DOUBLING OF BOND IS PERMISSIVE RATHER THAN MANDATORY FOR CERTAIN DEFENDANTS

Section 9 would amend the conditions of pretrial release statute, G.S. 15A-534. Section 9(a) would change the current requirement that bond be doubled for anyone charged with a new crime while on pretrial release for pending charge from a mandatory requirement to a permissive authorization. This section becomes effective October 1, 2015, and applies to conditions of pretrial release imposed on or after that date.

PART X: DISPOSITION OF CERTAIN PHYSICAL EVIDENCE THAT MAY CONTAIN BIOLOGICAL EVIDENCE

Section 10 of the PCS for HB173 would amend the provisions regarding retention of biological evidence to require a hearing before a defendant may waive the duty to preserve evidence and to provide a procedure to allow cumbersome evidence to be disposed of or returned to a rightful owner with only the preservation of certain portions likely to contain biological evidence. This section would become effective October 1, 2015.

PART XI: AMEND THE RULES OF EVIDENCE TO ALLOW A CERTIFICATION BY THE CUSTODIAN OF A BUSINESS RECORD TO SHOW THE AUTHENTICITY OF THE RECORD IN LIEU OF OFFERING THE CUSTODIAN'S IN-PERSON TESTIMONY

Section 11 would amend the rules of evidence to allow a certification by the custodian of a business record to show the authenticity of the record in lieu of offering the custodian's in-person testimony. This section would become effective October 1, 2015.

PART XIII: BAIL BOND CONTINUING EDUCATION

Article 71 of Chapter 58 of the General Statutes sets forth requirements relating to the licensure of runners and bail bondsmen. G.S. 58-71-71 currently requires continuing education and prelicensing courses to be provided by the North Carolina Bail Agents Association.

Section 13 would amend G.S. 58-71-1 to add a definition of "approved provider" of bail bond continuing education and prelicensing courses. It would also amend G.S. 58-71-71 to replace references



House Bill 173

Page 3

to “the North Carolina Bail Agents Association” with “approved provider” and to prohibit the Commissioner from approving educational courses that are to be offered solely online. These changes would be effective October 1, 2015.

EFFECTIVE DATE: Except as otherwise noted, this act is effective when it becomes law.



NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 173

DATE Sept 16, 2015

S. B. No. _____

Amendment No. _____

COMMITTEE SUBSTITUTE ☒

(to be filled in by
Principal Clerk)

Rep.) WADE
Sen.)

1 moves to amend the bill on page 7, line 27

2 () WHICH CHANGES THE TITLE

3 by rewording the line to read

4

5 "effect on May 15, 2015, and remains in effect,

6 The certificate of authority issued by the "

7

8

9

10

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SIGNED July Wade

ADOPTED _____ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

4

HOUSE BILL 482
Committee Substitute Favorable 6/17/15
Committee Substitute #2 Favorable 8/4/15
Fourth Edition Engrossed 8/12/15

Short Title: Employee Misclassification Reform.

(Public)

Sponsors:

Referred to:

April 2, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE EMPLOYEE FAIR CLASSIFICATION ACT.
3 The General Assembly of North Carolina enacts:
4

5 **PART I. EMPLOYEE FAIR CLASSIFICATION ACT**

6 **SECTION 1.1.** Chapter 143 of the General Statutes is amended by adding a new
7 Article to read:

8 "Article 81.

9 "Employee Fair Classification Act.

10 **"§ 143-760. Title.**

11 This Article shall be known and may be cited as the "Employee Fair Classification Act."

12 **"§ 143-761. Definitions; scope.**

13 (a) The following definitions apply in this Article:

14 (1) Employ. – As defined by G.S. 95-25.2(3). For the purposes of this Article,
15 an entity or individual shall not be deemed to be an employer of an
16 individual hired or otherwise engaged by or through the entity or individual's
17 independent contractor.

18 (2) Employee. – Any individual that is defined as an employee by either
19 G.S. 95-25.2(4), 96-1(10), 97-2(2), or 105-163.1(4). The term does not mean
20 an individual who is an independent contractor.

21 (3) Employee Classification Division or Division. – The Employee
22 Classification Division within the Department of Revenue.

23 (4) Employee misclassification. – Avoiding tax liabilities and other obligations
24 imposed by Chapter 95, 96, 97, or 105 of the General Statutes by
25 misclassifying an employee as an independent contractor.

26 (5) Employer. – Any individual or entity that employs one or more employees
27 as defined by G.S. 97-2(3).

28 (6) Secretary. – The Secretary of the Department of Revenue.

29 (b) Nothing in this Article shall be construed or is intended to change the definition of
30 "employer" or "employee" under any other provision of law.

31 **"§ 143-762. Establishment of Employee Classification Division; appointment of director;**
32 **salaries; other staff.**

33 (a) The Employee Classification Division is established within the Department of
34 Revenue.



(b) The Secretary shall appoint a director of the Division to serve at the Secretary's pleasure with such authority as the Secretary deems necessary to direct and oversee the Division in carrying out the purposes of this Article. The director shall be exempt from the State Human Resources Act and shall devote his or her entire time to the duties of the Division. The director may delegate any duties and responsibilities as may be necessary to ensure the proper management of the Division. The director's salary shall be set by the General Assembly.

(c) The Secretary may employ clerical staff, investigators, and other staff within the Division as is necessary for the Division to perform its duties under this Article. Notwithstanding Chapters 126, 143A, and 143B of the General Statutes or any other provision of law, the director may hire or fire personnel and transfer personnel within the Division. The Division shall be provided with adequate offices in which the Division's records shall be kept and its official business transacted during regular business hours. The Division shall also be provided with necessary office furniture, stationery, and other supplies.

(d) The Office of the State Chief Information Officer shall ensure that the Division is provided with all necessary access to the Government Data Analytics Center and all other information technology services.

"§ 143-763. Division powers and duties.

(a) The Division shall have the following duties:

- (1) Be available during business hours to receive reports of employee misclassification by telephonic, written, or electronic communication.
- (2) Investigate reports of employee misclassification and coordinate with and assist all relevant State agencies in recovering any back taxes, wages, benefits, penalties, or other monies owed as a result of an employer engaging in employee misclassification.
- (3) Assess administrative civil penalties for instances of employee misclassification as set forth in G.S. 143-765.
- (4) Coordinate with relevant State agencies and District Attorneys' offices in the prosecution of employers and individuals who fail to pay civil assessments or penalties assessed as a result of the employer's or individual's involvement in employee misclassification.
- (5) Provide all relevant information pertaining to each instance of reported employee misclassification to the North Carolina Department of Labor, the North Carolina Division of Employment Security, and the North Carolina Industrial Commission to facilitate investigation of potential violations of Chapter 143, 95, 96, 97, or 105 of the General Statutes.
- (6) Create a publicly available notice that includes the definition of employee misclassification and indicates the civil penalties provided for in G.S. 143-765.
- (7) Develop methods and strategies for information sharing between State agencies in order to proactively identify possible instances of employee misclassification.
- (8) Develop methods and strategies to educate employers, employees, and the public about proper classification of employees and the prevention of employee misclassification.

(b) The director shall appoint an informal advisory council to advise the director on issues within the jurisdiction of the Division. The members of the advisory council shall include, at a minimum:

- (1) The following officers or the officer's designee:
 - a. Commissioner of Labor.
 - b. Secretary of Revenue.
 - c. Chairman of the Industrial Commission.

d. Assistant Secretary of Commerce for the Division of Employment Security.

e. State Budget Director.

(2) A representative of workers in this State.

(3) A representative of employers in this State.

The members of the council shall not receive compensation, per diem, or expense reimbursement from the State Treasury for their service on the advisory council.

(c) No later than October 1 of each year, the Division shall publish annually to the Office of the Governor and to the Joint Legislative Commission on Governmental Operations a report of the administration of this Article, together with any recommendations as the Division deems advisable. This report shall include, at a minimum, the number of reports of employee misclassification received, the number and amount of back taxes, wages, benefits, penalties, or other monies assessed, the amount of back taxes, wages, benefits, penalties, or other monies collected, and the number of cases referred to each State agency.

(d) The Division shall adopt rules in accordance with Article 2A of Chapter 150B of the General Statutes and that are not inconsistent with this Article for the purpose of carrying out the provisions of this Article and establishing the processes and procedures to be used under this Article.

"§ 143-764. Determination of independent contractor status.

(a) The following factors shall be considered in determining whether an individual is an independent contractor for purposes of this Article:

(1) Whether the individual is engaged in an independent business, calling, or occupation.

(2) Whether the individual is to have the independent use of his or her special skill, knowledge, or training in the execution of the work.

(3) Whether the individual is doing a specified piece of work at a fixed price or for a lump sum or upon a quantitative basis.

(4) Whether the individual is not subject to discharge because he or she adopts one method of doing the work rather than another.

(5) Whether the individual is not in the regular employ of the other contracting party.

(6) Whether the individual is free to use such assistants as he or she may think proper.

(7) Whether the individual has full control over such assistants.

(8) Whether the individual selects his or her own time, subject to customer requirements.

(9) Whether the individual has a substantial investment in any equipment or tools required to perform the contracted work.

(10) Whether the individual has the opportunity for profit or loss.

(b) The presence of one or more of the foregoing factors is not controlling, nor is the presence of all of the foregoing factors required in determining whether an individual is an independent contractor. Acts taken to comply with laws or regulations shall not be considered as evidence contrary to an independent contractor determination.

(c) The provisions of this section are intended to codify the holding in *Hayes v. Board of Trustees of Elon College*, 224 N.C. 11 (1944) and its progeny.

"§ 143-765. Employee misclassification prohibited; civil penalties; repeated instances of misclassification.

(a) Employee misclassification is prohibited.

(b) Any employer who is found by the Division to have engaged in willful employee misclassification after being assessed any back taxes, wages, benefits, penalties, or other monies by any State agency as a result of misclassifying one or more employees within the

1 previous three calendar years shall be assessed a civil penalty of no greater than one thousand
2 dollars (\$1,000) per misclassified employee for any future instances of employee
3 misclassification. In determining the amount of the penalty to be assessed, the Division shall
4 consider the degree of willfulness or negligence by the employer in engaging in the employee
5 misclassification. The penalty herein provided shall be assessed by the Division
6 administratively. Any employer found by the Division to have engaged in employee
7 misclassification or any other violation of this Article may, within 60 days of receiving written
8 notification of a final finding by the Division, appeal the final finding and any accompanying
9 penalty or other sanction by either (i) commencing a contested case under Chapter 150B of the
10 General Statutes or (ii) filing a petition with the Superior Court of Wake County or of such
11 county where the events giving rise to the finding arose. The procedure shall be the same as in
12 all other contested cases or civil actions, except that the review of the Division's findings and
13 any accompanying penalties or sanctions shall be de novo for both factual findings and
14 questions of law. Enforcement of the penalty shall be made by the Office of the Attorney
15 General. The clear proceeds of penalties provided for in this subsection shall be remitted to the
16 Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

17 (c) Nothing in this section shall be construed to create a private right of action, at law or
18 in equity, for the activities prohibited by this Article.

19 **"§ 143-766. Temporary amnesty program.**

20 (a) The Division shall establish and administer a temporary amnesty program for the
21 purpose of encouraging voluntary self-reporting by employers currently engaging in employee
22 misclassification. Every employer participating in the temporary amnesty program shall be
23 immune from the civil penalties provided for in G.S. 143-765 for past instances of employee
24 misclassification that are voluntarily self-reported by the employer in accordance with the
25 procedures of the temporary amnesty program.

26 (b) The Division shall establish procedures for participation in the temporary amnesty
27 program. These procedures shall require, at a minimum, that a participating employer:

28 (1) File an application with the Division on a form prescribed by the Division on
29 or before October 1, 2016. This form shall require, at a minimum, the
30 employer's name, physical address, mailing address, telephone number,
31 Social Security number or taxpayer ID number, and disclosure of all actual
32 or potential instances of employee misclassification. If available, this form
33 shall require the employer's registered agent, drivers license number, license
34 number(s), and issuing agency of all licenses issued by a State licensing
35 board.

36 (2) Comply with any and all determinations made or directives issued by the
37 Division pertaining to the employer's application and compliance with this
38 Article.

39 (c) Nothing in this section shall be construed to limit the liability of a participating
40 employer in any civil or criminal matter not provided for by this Article.

41 **"§ 143-767. Occupational licensing boards and commissions; notice requirement;
42 applicant certification.**

43 (a) Every State occupational licensing board or commission that is authorized to issue
44 any license, permit, or certification shall include on every application for licensure, permit, or
45 certification, or application for renewal of the same, a certification that the applicant has read
46 and understands the employee misclassification notice set forth in G.S. 143-763(a)(7).

47 (b) Every applicant for a license, permit, or certification issued by a State occupational
48 licensing board or commission shall truthfully certify on the appropriate application that the
49 applicant has read and understands the employee misclassification notice set forth in
50 G.S. 143-763(a)(7).

(c) An occupational licensing board or commission shall deny the license, permit, or certification application of any applicant who fails to comply with the certification requirement set forth in subsection (b) of this section.

"§ 143-768. Confidentiality; access to records.

The records of the Division that are not civil penalty assessments or final orders relating to an appeal of a civil penalty assessment, insofar as they refer to reported violations, investigations, or other enforcement actions taken by the Division, are not public records under G.S. 132-1 but may be shared by the Division with State and federal agencies as permitted or required by law."

SECTION 1.2. G.S. 97-5.1 is repealed.

SECTION 1.3. G.S. 105-259(b) is amended by adding a new subdivision to read:

"(49) To furnish to the North Carolina Department of Labor, the North Carolina Division of Employment Security, and the North Carolina Industrial Commission employee misclassification information pursuant to G.S. 143-763(a)(5) unless prohibited by law."

SECTION 1.4. G.S. 143-760, 143-761, and 143-762 are effective when the act becomes law. The remainder of this section becomes effective January 1, 2016, and applies to instances of employee misclassification occurring on or after that date.

PART II. MISCLASSIFICATION NOTICE ADDED TO NCDOL POSTERS

SECTION 2.1. G.S. 95-25.15(c) reads as rewritten:

"(c) A poster summarizing the major provisions of this Article shall be displayed in every establishment subject to this Article. This poster shall also include notice indicating the following:

- (1) Any worker who is defined as an employee by either G.S. 95-25.2(4), 143-761(2), 96-1(10), 97-2(2), or 105-163.1(4) shall be treated as an employee unless the individual is an independent contractor.
- (2) Any employee who believes that he or she has been misclassified as an independent contractor by their employer may report the suspected misclassification to the Employee Classification Division within the Department of Revenue.
- (3) The physical location, mailing address, telephone number, and e-mail address where alleged incidents of employee misclassification may be reported to the Employee Classification Division within the Department of Revenue."

PART III. SANCTIONS AND OTHER REQUIREMENTS CONCERNING EMPLOYEE MISCLASSIFICATION

SECTION 3.1. G.S. 87-11 reads as rewritten:

"§ 87-11. Revocation of license; charges of fraud, negligence, incompetency, etc.; hearing thereon; reissuance of certificate.

(a) The Board shall have the power to refuse to issue or renew or revoke, suspend, or restrict a certificate of license or to issue a reprimand or take other disciplinary action if a general contractor licensed under this Article is found guilty of any fraud or deceit in obtaining a license, or gross negligence, incompetency, or misconduct in the practice of his or her profession, or willful violation of any provision of this ~~Article~~ Article, or if a penalty was imposed pursuant to G.S. 143-765(b) that has been upheld upon final adjudication, the violation giving rise to the penalty was willful, and there was no good-faith argument that the individual was an independent contractor. The Board shall also have the power to revoke, suspend, or otherwise restrict the ability of any person to act as a qualifying party for a license to practice general contracting, as provided in G.S. 87-10(c), for any copartnership, corporation or any

1 other organization or combination, if that person committed any act in violation of the
2 provisions of this section and the Board may take disciplinary action against the individual
3 license held by that person.

4 (a1) Any person may prefer charges of fraud, deceit, negligence, or misconduct against
5 any general contractor licensed under this Article. The charges shall be in writing and sworn to
6 by the complainant and submitted to the Board. The charges, unless dismissed without hearing
7 by the Board as unfounded or trivial, shall be heard and determined by the Board in accordance
8 with the provisions of Chapter 150B of the General Statutes.

9 (b) The Board shall adopt and publish guidelines, consistent with the provisions of this
10 Article, governing the suspension and revocation of licenses. These guidelines shall include
11 references to the prohibition of employee misclassification under Article 81 of Chapter 143 of
12 the General Statutes and state that engaging in employee misclassification is grounds for
13 revocation of a license issued under this Article.

14 (c) The Board shall establish and maintain a system whereby detailed records are kept
15 regarding complaints against each licensee. This record shall include, for each licensee, the date
16 and nature of each complaint, investigatory action taken by the Board, any findings by the
17 Board, and the disposition of the matter.

18 (d) The Board may reissue a license to any person, firm or corporation whose license
19 has been revoked: Provided, five or more members of the Board vote in favor of such
20 reissuance for reasons the Board may deem sufficient.

21 The Board shall immediately notify the Secretary of State of its findings in the case of the
22 revocation of a license or of the reissuance of a revoked license.

23 A certificate of license to replace any certificate lost, destroyed or mutilated may be issued
24 subject to the rules and regulations of the Board.

25 (e) The Board shall be entitled to recover its reasonable administrative costs associated
26 with the investigation and prosecution of a violation of this Article or rules or regulations of the
27 Board up to a maximum of five thousand dollars (\$5,000) for any licensee or qualifying party
28 found to have committed any of the following:

29 (1) Fraud or deceit in obtaining a license.

30 (2) Gross negligence, incompetency, or misconduct in the practice of general
31 contracting.

32 (3) Willful violation of any provision of this Article."

33 **SECTION 3.1A.** G.S. 87-23 reads as rewritten:

34 **"§ 87-23. Revocation or suspension of license for cause.**

35 (a) The Board shall have power to revoke or suspend the license of or order the
36 reprimand or probation of any plumbing, heating, or fire sprinkler contractor, or any
37 combination thereof, who is guilty of any fraud or deceit in obtaining or renewing a license, or
38 who fails to comply with any provision or requirement of this Article, or the rules adopted by
39 the Board, if a penalty was imposed pursuant to G.S. 143-765(b) that has been upheld upon
40 final adjudication, the violation giving rise to the penalty was willful, and there was no
41 good-faith argument that the individual was an independent contractor, or for gross negligence,
42 incompetency, or misconduct, in the practice of or in carrying on the business of a plumbing,
43 heating, or fire sprinkler contractor, or any combination thereof, as defined in this Article. Any
44 person may prefer charges of such fraud, deceit, gross negligence, incompetency, misconduct,
45 or failure to comply with any provision or requirement of this Article, or the rules of the Board,
46 against any plumbing, heating, or fire sprinkler contractor, or any combination thereof, who is
47 licensed under the provisions of this Article. All of the charges shall be in writing and
48 investigated by the Board. Any proceedings on the charges shall be carried out by the Board in
49 accordance with the provisions of Chapter 150B of the General Statutes.

50 (b) The Board shall adopt and publish guidelines, consistent with the provisions of this
51 Chapter, governing the suspension and revocation of licenses.

1 (c) The Board shall establish and maintain a system whereby detailed records are kept
2 regarding complaints against each licensee.

3 (d) The Board may conduct audits of the pay records and project records of licensee
4 firms in furtherance of this Article or the Employee Fair Classification Act, Article 81 of
5 Chapter 143 of the General Statutes."

6 **SECTION 3.1B.** G.S. 87-42 reads as rewritten:

7 **"§ 87-42. Duties and powers of Board.**

8 In order to protect the life, health and property of the public, the State Board of Examiners
9 of Electrical Contractors shall provide for the written examination of all applicants for
10 certification as a qualified individual, as defined in G.S. 87-41.1. The Board shall receive all
11 applications for certification as a qualified individual and all applications for licenses to be
12 issued under this Article, shall examine all applicants to determine that each has met the
13 requirements for certification and shall discharge all duties enumerated in this Article.
14 Applicants for certification as a qualified individual must be at least 18 years of age and shall
15 be required to demonstrate to the satisfaction of the Board their good character and adequate
16 technical and practical knowledge concerning the safe and proper installation of electrical work
17 and equipment. The examination to be given for this purpose shall include, but not be limited
18 to, the appropriate provisions of the National Electrical Code as incorporated in the North
19 Carolina State Building Code, the analysis of electrical plans and specifications, estimating of
20 electrical installations, and the fundamentals of the installation of electrical work and
21 equipment. Certification of qualified individuals shall be issued in the same classifications as
22 provided in this Article for license classifications. The Board shall prescribe the standards of
23 knowledge, experience and proficiency to be required of qualified individuals, which may vary
24 for the various license classifications. The Board shall issue certifications and licenses to all
25 applicants meeting the requirements of this Article and of the Board upon the receipt of the fees
26 prescribed by G.S. 87-44. The Board shall have power to make rules and regulations necessary
27 to the performance of its duties and for the effective implementation of the provisions of this
28 Article. The Board may conduct audits of the pay records and project records of licensee firms
29 in furtherance of this Article or the Employee Fair Classification Act, Article 81 of Chapter 143
30 of the General Statutes. The Board shall have the power to administer oaths and issue
31 subpoenas requiring the attendance of persons and the production of papers and records before
32 the Board in any hearing, investigation, or proceeding conducted by it. Members of the Board's
33 staff or the sheriff or other appropriate official of any county of this State shall serve all notices,
34 subpoenas, and other papers given to them by the Chairman for service in the same manner as
35 process issued by any court of record. Any person who neglects or refuses to obey a subpoena
36 issued by the Board shall be guilty of a Class 1 misdemeanor. The Board shall have the power
37 to acquire, rent, encumber, alienate, and otherwise deal with real property in the same manner
38 as a private person or corporation, subject only to approval of the Governor and the Council of
39 State. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and
40 revenues of the Board. The Board shall keep minutes of all its proceedings and shall keep an
41 accurate record of receipts and disbursements which shall be audited at the close of each fiscal
42 year by a certified public accountant, and the audit report shall be filed with the State of North
43 Carolina in accordance with Chapter 93B of the General Statutes."

44 **SECTION 3.1C.** G.S. 87-47(a1) reads as rewritten:

45 "(a1) The following activities are prohibited:

- 46 (1) Offering to engage or engaging in electrical contracting without being
47 licensed.
- 48 (2) Selling, transferring, or assigning a license, regardless of whether for a fee.
- 49 (3) Aiding or abetting an unlicensed person, partnership, firm, or corporation to
50 offer to engage or to engage in electrical contracting.
- 51 (4) Being convicted of a crime involving fraud or moral turpitude.

- (5) Engaging in fraud or misrepresentation to obtain a certification, obtain or renew a license, or practice electrical contracting.
- (6) Engaging in false or misleading advertising.
- (7) Engaging in malpractice, unethical conduct, fraud, deceit, gross negligence, gross incompetence, or gross misconduct in the practice of electrical contracting.
- (8) Willfully engaging in employee misclassification in violation of G.S. 143-765(b) where there was no good-faith argument that the individual was an independent contractor."

SECTION 3.2. G.S. 143-59.2(a) reads as rewritten:

"(a) Ineligible Vendors. – A vendor is not entitled to enter into a contract for goods or services with any department, institution, or agency of the State government subject to the provisions of this Article if any officer or director of the vendor, or any owner if the vendor is an unincorporated business ~~entity~~entity; within five years prior to the date of the bid solicitation, has been assessed a civil penalty pursuant to G.S. 143-765(b) that has been upheld upon final adjudication, the violation giving rise to the penalty was willful, and there was no good-faith argument that the individual was an independent contractor; or within 10 years immediately prior to the date of the bid solicitation, has been convicted of any violation of Chapter 78A of the General Statutes or the Securities Act of 1933 or the Securities Exchange Act of 1934."

SECTION 3.3. G.S. 153A-134 is amended by adding a new subsection to read:

"(d) An applicant subject to regulation and licensure by a county under this section shall certify to the county on the relevant application that the applicant has read and understands the employee misclassification notice required under G.S. 143-763(a)(7)."

SECTION 3.4. G.S. 160A-194 is amended by adding a new subsection to read:

"(d) An applicant subject to regulation and licensure by a city under this section shall certify to the city on the relevant application that the applicant has read and understands the employee misclassification notice required under G.S. 143-763(a)(7)."

SECTION 3.5. G.S. 153A-360 reads as rewritten:

"§ 153A-360. Inspections of work in progress.

(a) As the work pursuant to a permit progresses, local inspectors shall make as many inspections of the work as may be necessary to satisfy them that it is being done according to the provisions of the applicable State and local laws and local ordinances and regulations and of the terms of the permit. In exercising this power, each member of the inspection department has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action. If a permit has been obtained by an owner exempt from licensure under G.S. 87-1(b)(2), no inspection shall be conducted without the owner being personally present, unless the plans for the building were drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes.

(b) Each owner shall certify to the county on the relevant application that the owner has read and understands the employee misclassification notice required under G.S. 143-763(a)(7)."

SECTION 3.6. G.S. 160A-420 reads as rewritten:

"§ 160A-420. Inspections of work in progress.

(a) As the work pursuant to a permit progresses, local inspectors shall make as many inspections thereof as may be necessary to satisfy them that the work is being done according to the provisions of any applicable State and local laws and of the terms of the permit. In exercising this power, members of the inspection department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. If a permit has been obtained by an owner exempt from licensure under G.S. 87-1(b)(2), no inspection shall be

1 conducted without the owner being personally present, unless the plans for the building were
2 drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes.

3 (b) Each owner shall certify to the city on the relevant application that the owner has
4 read and understands the employee misclassification notice required under G.S. 143-763(a)(7)."
5

6 **PART IV. APPROPRIATIONS**

7 **SECTION 4.(a)** There is appropriated from the General Fund to the Department of
8 Revenue the sum of two hundred ninety-three thousand dollars (\$293,000) for the 2015-2016
9 fiscal year and the sum of two hundred ninety-three thousand dollars (\$293,000) for the
10 2016-2017 fiscal year to establish up to five new positions in the Employee Classification
11 Division of the Department of Revenue to carry out the duties of the Division pursuant to
12 G.S. 143-763. The Department of Revenue shall consult with the Industrial Commission, the
13 Office of State Budget and Management, the Division of Employment Security of the
14 Department of Commerce, and the Department of Labor in hiring staff for this function.

15 **SECTION 4.(b)** There is appropriated from the General Fund to the Employee
16 Classification Division of the Department of Revenue the sum of seventeen thousand five
17 hundred dollars (\$17,500) for the 2015-2016 fiscal year for nonrecurring costs associated with
18 the positions authorized by this section.
19

20 **PART V. SEVERABILITY**

21 **SECTION 5.** If any section or provision of this act is declared unconstitutional or
22 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
23 the part so declared to be unconstitutional or invalid.
24

25 **PART VI. EFFECTIVE DATE**

26 **SECTION 6.** Except as otherwise provided, this act becomes effective January 1,
27 2016.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

D

HOUSE BILL 482
Committee Substitute Favorable 6/17/15
Committee Substitute #2 Favorable 8/4/15
Fourth Edition Engrossed 8/12/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H482-CSR-N-44 [v.5]
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Short Title: Employee Misclassification Reform.

(Public)

Sponsors:

Referred to:

April 2, 2015

A BILL TO BE ENTITLED
AN ACT TO ENACT THE EMPLOYEE FAIR CLASSIFICATION ACT.
The General Assembly of North Carolina enacts:

PART I. EMPLOYEE FAIR CLASSIFICATION ACT

SECTION 1.1. Chapter 143 of the General Statutes is amended by adding a new Article to read:

"Article 81.

"Employee Fair Classification Act.

"§ 143-760. Title.

This Article shall be known and may be cited as the "Employee Fair Classification Act."

"§ 143-761. Definitions; scope.

(a) The following definitions apply in this Article:

- (1) Employ. – As defined by G.S. 95-25.2(3). For the purposes of this Article, an entity or individual shall not be deemed to be an employer of an individual hired or otherwise engaged by or through the entity or individual's independent contractor.
- (2) Employee. – Any individual that is defined as an employee by either G.S. 95-25.2(4), 96-1(10), 97-2(2), or 105-163.1(4). The term does not mean an individual who is an independent contractor.
- (3) Employee Classification Division or Division. – The Employee Classification Division within the Department of Revenue.
- (4) Employee misclassification. – Avoiding tax liabilities and other obligations imposed by Chapter 95, 96, 97, or 105 of the General Statutes by misclassifying an employee as an independent contractor.
- (5) Employer. – Any individual or entity that employs one or more employees as defined by G.S. 97-2(3).
- (6) Secretary. – The Secretary of the Department of Revenue.

(b) Nothing in this Article shall be construed or is intended to change the definition of "employer" or "employee" under any other provision of law.

"§ 143-762. Establishment of Employee Classification Division; appointment of director; salaries; other staff.





(a) The Employee Classification Division is established within the Department of Revenue.

(b) The Secretary shall appoint a director of the Division to serve at the Secretary's pleasure with such authority as the Secretary deems necessary to direct and oversee the Division in carrying out the purposes of this Article. The director shall be exempt from the State Human Resources Act and shall devote his or her entire time to the duties of the Division. The director may delegate any duties and responsibilities as may be necessary to ensure the proper management of the Division. The director's salary shall be set by the General Assembly.

(c) The Secretary may employ clerical staff, investigators, and other staff within the Division as is necessary for the Division to perform its duties under this Article. Notwithstanding Chapters 126, 143A, and 143B of the General Statutes or any other provision of law, the director may hire or fire personnel and transfer personnel within the Division. The Division shall be provided with adequate offices in which the Division's records shall be kept and its official business transacted during regular business hours. The Division shall also be provided with necessary office furniture, stationery, and other supplies.

(d) The Office of the State Chief Information Officer shall ensure that the Division is provided with all necessary access to the Government Data Analytics Center and all other information technology services.

"§ 143-763. Division powers and duties.

(a) The Division shall have the following duties:

(1) Be available during business hours to receive reports of employee misclassification by telephonic, written, or electronic communication.

(2) Investigate reports of employee misclassification and coordinate with and assist all relevant State agencies in recovering any back taxes, wages, benefits, penalties, or other monies owed as a result of an employer engaging in employee misclassification.

(3) Assess administrative civil penalties for instances of employee misclassification as set forth in G.S. 143-765.

(4) Coordinate with relevant State agencies and District Attorneys' offices in the prosecution of employers and individuals who fail to pay civil assessments or penalties assessed as a result of the employer's or individual's involvement in employee misclassification.

(5) Provide all relevant information pertaining to each instance of reported employee misclassification to the North Carolina Department of Labor, the North Carolina Division of Employment Security, and the North Carolina Industrial Commission to facilitate investigation of potential violations of Chapter 143, 95, 96, 97, or 105 of the General Statutes.

(6) Create a publicly available notice that includes the definition of employee misclassification and indicates the civil penalties provided for in G.S. 143-765.

(7) Develop methods and strategies for information sharing between State agencies in order to proactively identify possible instances of employee misclassification.

(8) Develop methods and strategies to educate employers, employees, and the public about proper classification of employees and the prevention of employee misclassification.

(b) The director shall appoint an informal advisory council to advise the director on issues within the jurisdiction of the Division. The members of the advisory council shall include, at a minimum:

(1) The following officers or the officer's designee:

a. Commissioner of Labor.



- b. Secretary of Revenue.
- c. Chairman of the Industrial Commission.
- d. Assistant Secretary of Commerce for the Division of Employment Security.
- e. State Budget Director.

(2) A representative of workers in this State.

(3) A representative of employers in this State.

The members of the council shall not receive compensation, per diem, or expense reimbursement from the State Treasury for their service on the advisory council. The director shall ensure that the advisory council meets as often as is necessary and no less frequently than on a quarterly basis.

(c) No later than October 1 of each year, the Division shall publish annually to the Office of the Governor and to the Joint Legislative Commission on Governmental Operations a report of the administration of this Article, together with any recommendations as the Division deems advisable. This report shall include, at a minimum, the number of reports of employee misclassification received, the number and amount of back taxes, wages, benefits, penalties, or other monies assessed, the amount of back taxes, wages, benefits, penalties, or other monies collected, and the number of cases referred to each State agency.

(d) The Division shall adopt rules in accordance with Article 2A of Chapter 150B of the General Statutes and that are not inconsistent with this Article for the purpose of carrying out the provisions of this Article and establishing the processes and procedures to be used under this Article.

"§ 143-764. Determination of independent contractor status.

(a) The following factors shall be considered in determining whether an individual is an independent contractor for purposes of this Article:

- (1) Whether the individual is engaged in an independent business, calling, or occupation.
- (2) Whether the individual is to have the independent use of his or her special skill, knowledge, or training in the execution of the work.
- (3) Whether the individual is doing a specified piece of work at a fixed price or for a lump sum or upon a quantitative basis.
- (4) Whether the individual is not subject to discharge because he or she adopts one method of doing the work rather than another.
- (5) Whether the individual is not in the regular employ of the other contracting party.
- (6) Whether the individual is free to use such assistants as he or she may think proper.
- (7) Whether the individual has full control over such assistants.
- (8) Whether the individual selects his or her own time.

(b) The presence of one or more of the foregoing factors is not controlling, nor is the presence of all of the foregoing factors required in determining whether an individual is an independent contractor. Acts taken to comply with laws or regulations shall not be considered as evidence contrary to an independent contractor determination.

(c) The provisions of this section are intended to codify the holding in *Hayes v. Board of Trustees of Elon College*, 224 N.C. 11 (1944). Other factors consistent with that holding may also be considered in making a determination under this section.

"§ 143-765. Employee misclassification prohibited; civil penalties; repeated instances of misclassification.

(a) Employee misclassification is prohibited. It shall be a violation of this Article for an employer to willfully or recklessly engage in employee misclassification. For the purposes of this Article, the term "willfully or recklessly engage in employee misclassification" shall mean



1 to knowingly commit employee misclassification as defined by G.S. 143-761(a)(4) where, in
2 consideration of the standard set forth in G.S. 143-764, there is no good faith argument that
3 such individual was an independent contractor. In addition to the requirements of and the
4 sanctions provided by this Article, any employer found to have misclassified one or more
5 employees shall be subject to any and all sanctions or liabilities allowed by any other
6 applicable law.

7 (b) Any employer who is found by the Division to have violated this Article after being
8 assessed any back taxes, wages, benefits, penalties, or other monies by any State agency as a
9 result of misclassifying one or more employees within the previous three calendar years shall
10 be assessed a civil penalty of no greater than one thousand dollars (\$1,000) per misclassified
11 employee for any future instances of employee misclassification. In determining the amount of
12 the penalty to be assessed, the Division shall consider the degree of willfulness or recklessness
13 by the employer engaging in the employee misclassification. The penalty herein provided shall
14 be assessed by the Division administratively. Any employer found by the Division to have
15 engaged in employee misclassification may, within 60 days of receiving written notification of
16 a final finding by the Division, appeal the final finding and any accompanying civil penalty by
17 filing an appeal with the Industrial Commission. The Industrial Commission shall conduct a
18 hearing, receive evidence, and render a decision as to whether the employer violated this
19 Article and the proper amount of any civil penalty. In rendering its decision, the Industrial
20 Commission shall state its findings of fact and conclusions of law upon which the decision is
21 based.

22 (c) The employer shall have right to appeal the decision of the Industrial Commission
23 by filing an appeal with the North Carolina Court of Appeals within 30 days of receipt of the
24 Industrial Commission's final decision. In reviewing the Industrial Commission's decision, the
25 Court of Appeals shall consider the matter *de novo* both for both findings of fact and
26 conclusions of law. Enforcement of the penalty shall be made by the Office of the Attorney
27 General. The clear proceeds of penalties provided for in this subsection shall be remitted to the
28 Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2

29 (d) Nothing in this section shall be construed to create a private right of action, at law or
30 in equity, for the activities prohibited by this Article.

31 **"§ 143-766. Temporary amnesty program.**

32 (a) The Division shall establish and administer a temporary amnesty program for the
33 purpose of encouraging voluntary self-reporting by employers currently engaging in employee
34 misclassification. Every employer participating in the temporary amnesty program shall be
35 immune from the civil penalties provided for in G.S. 143-765 for past instances of employee
36 misclassification that are voluntarily self-reported by the employer in accordance with the
37 procedures of the temporary amnesty program.

38 (b) The Division shall establish procedures for participation in the temporary amnesty
39 program. These procedures shall require, at a minimum, that a participating employer:

40 (1) File an application with the Division on a form prescribed by the Division on
41 or before October 1, 2016. This form shall require, at a minimum, the
42 employer's name, physical address, mailing address, telephone number,
43 Social Security number or taxpayer ID number, and disclosure of all actual
44 or potential instances of employee misclassification. If available, this form
45 shall require the employer's registered agent, drivers license number, license
46 number(s), and issuing agency of all licenses issued by a State licensing
47 board.

48 (2) Comply with any and all determinations made or directives issued by the
49 Division pertaining to the employer's application and compliance with this
50 Article.



(c) Nothing in this section shall be construed to limit the liability of a participating employer in any civil or criminal matter not provided for by this Article.

"§ 143-767. Occupational licensing boards and commissions; notice requirement; applicant certification.

(a) Every State occupational licensing board or commission that is authorized to issue any license, permit, or certification shall include on every application for licensure, permit, or certification, or application for renewal of the same, a certification that the applicant has read and understands the employee misclassification notice set forth in G.S. 143-763(a)(6).

(b) Every applicant for a license, permit, or certification issued by a State occupational licensing board or commission shall truthfully certify on the appropriate application that the applicant has read and understands the employee misclassification notice set forth in G.S. 143-763(a)(6).

(c) An occupational licensing board or commission shall deny the license, permit, or certification application of any applicant who fails to comply with the certification requirement set forth in subsection (b) of this section.

"§ 143-768. Confidentiality; access to records.

The records of the Division that are not civil penalty assessments or final orders relating to an appeal of a civil penalty assessment, insofar as they refer to reported violations, investigations, or other enforcement actions taken by the Division, are not public records under G.S. 132-1 but may be shared by the Division with State and federal agencies as permitted or required by law."

SECTION 1.2. G.S. 97-5.1 is repealed.

SECTION 1.3. G.S. 105-259(b) is amended by adding a new subdivision to read:

"(49) To furnish to the North Carolina Department of Labor, the North Carolina Division of Employment Security, and the North Carolina Industrial Commission employee misclassification information pursuant to G.S. 143-763(a)(5) unless prohibited by law."

SECTION 1.4. The Industrial Commission shall adopt temporary and permanent rules, and establish fees, in accordance with Article 2A of Chapter 150B of the General Statutes, for the purpose of carrying out the provisions of G.S. § 143-765(b). Rules adopted pursuant to this section shall not be subject to G.S. 150B-19.1(e), G.S. 150B-19.1(f), and G.S. 150B-21.4.

SECTION 1.5. G.S. 143-760, 143-761, 143-762, 143-763, and 143-768 are effective when the act becomes law. The remainder of this section becomes effective January 1, 2016, and applies to instances of employee misclassification occurring on or after that date.

PART II. MISCLASSIFICATION NOTICE ADDED TO NCDOL POSTERS

SECTION 2.1. G.S. 95-25.15(c) reads as rewritten:

(c) A poster summarizing the major provisions of this Article shall be displayed in every establishment subject to this Article. This poster shall also include notice indicating the following in plain language:

(1) Any worker who is defined as an employee by either G.S. 95-25.2(4), 143-761(2), 96-1(10), 97-2(2), or 105-163.1(4) shall be treated as an employee unless the individual is an independent contractor.

(2) Any employee who believes that the employee has been misclassified as an independent contractor by the employee's employer may report the suspected misclassification to the Employee Classification Division within the Department of Revenue.

(3) The physical location, mailing address, telephone number, and e-mail address where alleged incidents of employee misclassification may be



1 reported to the Employee Classification Division within the Department of
2 Revenue."
3

4 **PART III. SANCTIONS AND OTHER REQUIREMENTS CONCERNING**
5 **EMPLOYEE MISCLASSIFICATION**

6 **SECTION 3.1.** G.S. 87-11 reads as rewritten:

7 **"§ 87-11. Revocation of license; charges of fraud, negligence, incompetency, etc.; hearing**
8 **thereon; reissuance of certificate.**

9 (a) The Board shall have the power to refuse to issue or renew or revoke, suspend, or
10 restrict a certificate of license or to issue a reprimand or take other disciplinary action if a
11 general contractor licensed under this Article is found guilty of any fraud or deceit in obtaining
12 a license, or gross negligence, incompetency, or misconduct in the practice of his or her
13 profession, or willful violation of any provision of this ~~Article~~Article, or if a penalty was
14 imposed pursuant to G.S. 143-765(b) that has been upheld upon final adjudication. The Board
15 shall also have the power to revoke, suspend, or otherwise restrict the ability of any person to
16 act as a qualifying party for a license to practice general contracting, as provided in
17 G.S. 87-10(c), for any copartnership, corporation or any other organization or combination, if
18 that person committed any act in violation of the provisions of this section and the Board may
19 take disciplinary action against the individual license held by that person.

20 (a1) Any person may prefer charges of fraud, deceit, negligence, or misconduct against
21 any general contractor licensed under this Article. The charges shall be in writing and sworn to
22 by the complainant and submitted to the Board. The charges, unless dismissed without hearing
23 by the Board as unfounded or trivial, shall be heard and determined by the Board in accordance
24 with the provisions of Chapter 150B of the General Statutes.

25 (b) The Board shall adopt and publish guidelines, consistent with the provisions of this
26 Article, governing the suspension and revocation of licenses. These guidelines shall include
27 references to the prohibition of employee misclassification under Article 81 of Chapter 143 of
28 the General Statutes and state that engaging in employee misclassification is grounds for
29 revocation of a license issued under this Article.

30 (c) The Board shall establish and maintain a system whereby detailed records are kept
31 regarding complaints against each licensee. This record shall include, for each licensee, the date
32 and nature of each complaint, investigatory action taken by the Board, any findings by the
33 Board, and the disposition of the matter.

34 (d) The Board may reissue a license to any person, firm or corporation whose license
35 has been revoked: Provided, five or more members of the Board vote in favor of such
36 reissuance for reasons the Board may deem sufficient.

37 The Board shall immediately notify the Secretary of State of its findings in the case of the
38 revocation of a license or of the reissuance of a revoked license.

39 A certificate of license to replace any certificate lost, destroyed or mutilated may be issued
40 subject to the rules and regulations of the Board.

41 (e) The Board shall be entitled to recover its reasonable administrative costs associated
42 with the investigation and prosecution of a violation of this Article or rules or regulations of the
43 Board up to a maximum of five thousand dollars (\$5,000) for any licensee or qualifying party
44 found to have committed any of the following:

45 (1) Fraud or deceit in obtaining a license.

46 (2) Gross negligence, incompetency, or misconduct in the practice of general
47 contracting.

48 (3) Willful violation of any provision of this Article."

49 **SECTION 3.1A.** G.S. 87-23 reads as rewritten:

50 **"§ 87-23. Revocation or suspension of license for cause.**



(a) The Board shall have power to revoke or suspend the license of or order the reprimand or probation of any plumbing, heating, or fire sprinkler contractor, or any combination thereof, who is guilty of any fraud or deceit in obtaining or renewing a license, or who fails to comply with any provision or requirement of this Article, or the rules adopted by the Board, if a penalty was imposed pursuant to G.S. 143-765(b) that has been upheld upon final adjudication, or for gross negligence, incompetency, or misconduct, in the practice of or in carrying on the business of a plumbing, heating, or fire sprinkler contractor, or any combination thereof, as defined in this Article. Any person may prefer charges of such fraud, deceit, gross negligence, incompetency, misconduct, or failure to comply with any provision or requirement of this Article, or the rules of the Board, against any plumbing, heating, or fire sprinkler contractor, or any combination thereof, who is licensed under the provisions of this Article. All of the charges shall be in writing and investigated by the Board. Any proceedings on the charges shall be carried out by the Board in accordance with the provisions of Chapter 150B of the General Statutes.

(b) The Board shall adopt and publish guidelines, consistent with the provisions of this Chapter, governing the suspension and revocation of licenses.

(c) The Board shall establish and maintain a system whereby detailed records are kept regarding complaints against each licensee.

(d) The Board may conduct audits of the pay records and project records of licensee firms in furtherance of this Article or the Employee Fair Classification Act, Article 81 of Chapter 143 of the General Statutes."

SECTION 3.1B. G.S. 87-42 reads as rewritten:

"§ 87-42. Duties and powers of Board.

In order to protect the life, health and property of the public, the State Board of Examiners of Electrical Contractors shall provide for the written examination of all applicants for certification as a qualified individual, as defined in G.S. 87-41.1. The Board shall receive all applications for certification as a qualified individual and all applications for licenses to be issued under this Article, shall examine all applicants to determine that each has met the requirements for certification and shall discharge all duties enumerated in this Article. Applicants for certification as a qualified individual must be at least 18 years of age and shall be required to demonstrate to the satisfaction of the Board their good character and adequate technical and practical knowledge concerning the safe and proper installation of electrical work and equipment. The examination to be given for this purpose shall include, but not be limited to, the appropriate provisions of the National Electrical Code as incorporated in the North Carolina State Building Code, the analysis of electrical plans and specifications, estimating of electrical installations, and the fundamentals of the installation of electrical work and equipment. Certification of qualified individuals shall be issued in the same classifications as provided in this Article for license classifications. The Board shall prescribe the standards of knowledge, experience and proficiency to be required of qualified individuals, which may vary for the various license classifications. The Board shall issue certifications and licenses to all applicants meeting the requirements of this Article and of the Board upon the receipt of the fees prescribed by G.S. 87-44. The Board shall have power to make rules and regulations necessary to the performance of its duties and for the effective implementation of the provisions of this Article. The Board may conduct audits of the pay records and project records of licensee firms in furtherance of this Article or the Employee Fair Classification Act, Article 81 of Chapter 143 of the General Statutes. The Board shall have the power to administer oaths and issue subpoenas requiring the attendance of persons and the production of papers and records before the Board in any hearing, investigation, or proceeding conducted by it. Members of the Board's staff or the sheriff or other appropriate official of any county of this State shall serve all notices, subpoenas, and other papers given to them by the Chairman for service in the same manner as process issued by any court of record. Any person who neglects or refuses to obey a subpoena



1 issued by the Board shall be guilty of a Class 1 misdemeanor. The Board shall have the power
2 to acquire, rent, encumber, alienate, and otherwise deal with real property in the same manner
3 as a private person or corporation, subject only to approval of the Governor and the Council of
4 State. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and
5 revenues of the Board. The Board shall keep minutes of all its proceedings and shall keep an
6 accurate record of receipts and disbursements which shall be audited at the close of each fiscal
7 year by a certified public accountant, and the audit report shall be filed with the State of North
8 Carolina in accordance with Chapter 93B of the General Statutes."

9 **SECTION 3.1C.** G.S. 87-47(a1) reads as rewritten:

10 "(a1) The following activities are prohibited:

- 11 (1) Offering to engage or engaging in electrical contracting without being
12 licensed.
- 13 (2) Selling, transferring, or assigning a license, regardless of whether for a fee.
- 14 (3) Aiding or abetting an unlicensed person, partnership, firm, or corporation to
15 offer to engage or to engage in electrical contracting.
- 16 (4) Being convicted of a crime involving fraud or moral turpitude.
- 17 (5) Engaging in fraud or misrepresentation to obtain a certification, obtain or
18 renew a license, or practice electrical contracting.
- 19 (6) Engaging in false or misleading advertising.
- 20 (7) Engaging in malpractice, unethical conduct, fraud, deceit, gross negligence,
21 gross incompetence, or gross misconduct in the practice of electrical
22 contracting.
- 23 (8) Engaging in employee misclassification in violation of G.S. 143-765."

24 **SECTION 3.2.** G.S. 143-59.2(a) reads as rewritten:

25 "(a) Ineligible Vendors. – A vendor is not entitled to enter into a contract for goods or
26 services with any department, institution, or agency of the State government subject to the
27 provisions of this Article if any officer or director of the vendor, or any owner if the vendor is
28 an unincorporated business ~~entity, entity;~~ within five years prior to the date of the bid
29 solicitation, has been assessed a civil penalty pursuant to G.S. 143-765(b) that has been upheld
30 upon final adjudication; or within 10 years immediately prior to the date of the bid solicitation,
31 has been convicted of any violation of Chapter 78A of the General Statutes or the Securities
32 Act of 1933 or the Securities Exchange Act of 1934."

33 **SECTION 3.3.** G.S. 153A-134 is amended by adding a new subsection to read:

34 "(d) An applicant subject to regulation and licensure by a county under this section shall
35 certify to the county on the relevant application that the applicant has read and understands the
36 employee misclassification notice required under G.S. 143-763(a)(6)."

37 **SECTION 3.4.** G.S. 160A-194 is amended by adding a new subsection to read:

38 "(d) An applicant subject to regulation and licensure by a city under this section shall
39 certify to the city on the relevant application that the applicant has read and understands the
40 employee misclassification notice required under G.S. 143-763(a)(6)."

41 **SECTION 3.5.** G.S. 153A-360 reads as rewritten:

42 "**§ 153A-360. Inspections of work in progress.**

43 (a) As the work pursuant to a permit progresses, local inspectors shall make as many
44 inspections of the work as may be necessary to satisfy them that it is being done according to
45 the provisions of the applicable State and local laws and local ordinances and regulations and
46 of the terms of the permit. In exercising this power, each member of the inspection department
47 has a right, upon presentation of proper credentials, to enter on any premises within the
48 territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or
49 other enforcement action. If a permit has been obtained by an owner exempt from licensure
50 under G.S. 87-1(b)(2), no inspection shall be conducted without the owner being personally

present, unless the plans for the building were drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes.

(b) Each owner shall certify to the county on the relevant application that the owner has read and understands the employee misclassification notice required under G.S. 143-763(a)(6)."

SECTION 3.6. G.S. 160A-420 reads as rewritten:

"§ 160A-420. Inspections of work in progress.

(a) As the work pursuant to a permit progresses, local inspectors shall make as many inspections thereof as may be necessary to satisfy them that the work is being done according to the provisions of any applicable State and local laws and of the terms of the permit. In exercising this power, members of the inspection department shall have a right to enter on any premises within the jurisdiction of the department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. If a permit has been obtained by an owner exempt from licensure under G.S. 87-1(b)(2), no inspection shall be conducted without the owner being personally present, unless the plans for the building were drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes.

(b) Each owner shall certify to the city on the relevant application that the owner has read and understands the employee misclassification notice required under G.S. 143-763(a)(6)."

PART IV. UNEMPLOYMENT INSURANCE AND WORKERS' COMPENSATION FOR NEWSPRINT EMPLOYEES

SECTION 4.1. G.S. 96-1(b)(12) reads as rewritten:

"(12) Employment. – Defined in section 3306 of the Code, with the following additions and exclusions:

a. Additions. – The term includes ~~service~~ all of the following:

1. Service to a governmental unit, unit.
2. Service to a nonprofit organization, or organization
3. Service to an Indian tribe as described in 3306(c)(7) and 3306(c)(8) of the Code.
4. Service described in section 3306(c)(15)(A) or (B) of the Code involving delivery or distribution of newspapers or shopping news or involving the sale of newspapers or magazines.

...."

SECTION 4.2. G.S. 97-2(2) reads as rewritten:

"(2) Employee. – The term "employee" means every person engaged in an employment under any appointment or contract of hire or apprenticeship, express or implied, oral or written, including aliens, and also minors, whether lawfully or unlawfully employed, but excluding persons whose employment is both casual and not in the course of the trade, business, profession, or occupation of his employer, and as relating to those so employed by the State, the term "employee" shall include all officers and employees of the State, including such as are elected by the people, or by the General Assembly, or appointed by the Governor to serve on a per diem, part-time or fee basis, either with or without the confirmation of the Senate; as relating to municipal corporations and political subdivisions of the State, the term "employee" shall include all officers and employees thereof, including such as are elected by the people. The term "employee" shall include members of the North Carolina National Guard while on State active duty under orders of the Governor and members of the North Carolina State Defense Militia while on State active duty under orders of the Governor. The term "employee" shall include deputy sheriffs and all persons acting in the

1 capacity of deputy sheriffs, whether appointed by the sheriff or by the
2 governing body of the county and whether serving on a fee basis or on a
3 salary basis, or whether deputy sheriffs serving upon a full-time basis or a
4 part-time basis, and including deputy sheriffs appointed to serve in an
5 emergency, but as to those so appointed, only during the continuation of the
6 emergency. The sheriff shall furnish to the board of county commissioners a
7 complete list of all deputy sheriffs named or appointed by him immediately
8 after their appointment and notify the board of commissioners of any
9 changes made therein promptly after such changes are made. Any reference
10 to an employee who has been injured shall, when the employee is dead,
11 include also the employee's legal representative, dependents, and other
12 persons to whom compensation may be payable: Provided, further, that any
13 employee, as herein defined, of a municipality, county, or of the State of
14 North Carolina, while engaged in the discharge of the employee's official
15 duty outside the jurisdictional or territorial limits of the municipality, county,
16 or the State of North Carolina and while acting pursuant to authorization or
17 instruction from any superior officer, shall have the same rights under this
18 Article as if such duty or activity were performed within the territorial
19 boundary limits of their employer.

20 Every executive officer elected or appointed and empowered in
21 accordance with the charter and bylaws of a corporation shall be considered
22 as an employee of such corporation under this Article.

23 Any such executive officer of a corporation may, notwithstanding any
24 other provision of this Article, be exempt from the coverage of the
25 corporation's insurance contract by such corporation's specifically excluding
26 such executive officer in such contract of insurance, and the exclusion to
27 remove such executive officer from the coverage shall continue for the
28 period such contract of insurance is in effect, and during such period such
29 executive officers thus exempted from the coverage of the insurance contract
30 shall not be employees of such corporation under this Article.

31 All county agricultural extension service employees who do not receive
32 official federal appointments as employees of the United States Department
33 of Agriculture and who are field faculty members with professional rank as
34 designated in the memorandum of understanding between the North
35 Carolina Agricultural Extension Service, North Carolina State University, A
36 & T State University, and the boards of county commissioners shall be
37 deemed to be employees of the State of North Carolina. All other county
38 agricultural extension service employees paid from State or county funds
39 shall be deemed to be employees of the county board of commissioners in
40 the county in which the employee is employed for purposes of workers'
41 compensation.

42 The term "employee" shall also include members of the Civil Air Patrol
43 currently certified pursuant to G.S. 143B-1031(a) when performing duties in
44 the course and scope of a State-approved mission pursuant to Subpart C of
45 Part 5 of Article 13 of Chapter 143B of the General Statutes.

46 "Employee" shall not include any person performing voluntary service as
47 a ski patrolman who receives no compensation for such services other than
48 meals or lodging or the use of ski tow or ski lift facilities or any combination
49 thereof.

50 Any sole proprietor or partner of a business or any member of a limited
51 liability company may elect to be included as an employee under the



workers' compensation coverage of such business if he is actively engaged in the operation of the business and if the insurer is notified of his election to be so included. Any such sole proprietor or partner or member of a limited liability company shall, upon such election, be entitled to employee benefits and be subject to employee responsibilities prescribed in this Article.

Employee" shall include an authorized pickup firefighter of the North Carolina Forest Service of the Department of Agriculture and Consumer Services when that individual is engaged in emergency fire suppression activities for the North Carolina Forest Service. As used in this section, "authorized pickup firefighter" means an individual who has completed required fire suppression training as a wildland firefighter and who is available as needed by the North Carolina Forest Service for emergency fire suppression activities, including immediate dispatch to wildfires and standby for initial attack on fires during periods of high fire danger.

~~It shall be a rebuttable presumption that the term "employee" shall not include any person performing services in the sale of newspapers or magazines to ultimate consumers under an arrangement whereby the newspapers or magazines are to be sold by that person at a fixed price and the person's compensation is based on the retention of the excess of the fixed price over the amount at which the newspapers or magazines are charged to the person."~~

SECTION 4.3. Sections 4.1 and 4.2 are effective when the act becomes law.

PART V. SEVERABILITY

SECTION 5. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

PART VI. EFFECTIVE DATE

SECTION 6. Except as otherwise provided, this act becomes effective January 1, 2016.

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HOUSE BILL 482: Employee Misclassification Reform

2015-2016 General Assembly

Committee: Rules and Operations of the Senate
Introduced by: Reps. Pendleton, Blust, Szoka, Bishop
Analysis of: PCS to Fourth Edition
11482-CSRN-44

Date: September 15, 2015
Prepared by: Brad Krehely
Committee Counsel

SUMMARY: *House Bill 482 would enact the Employee Fair Classification Act (Act) to prevent the misclassification of employees as independent contractors and make other reforms regarding employee misclassification. The Proposed Committee Substitute (PCS) does all of the following: (1) provides that the advisory council must meet at least quarterly, (2) clarifies that the independent contractor test includes the eight factors from Hayes v. Board of Trustees of Elon College, (3) provides that employers may appeal determinations of employee misclassification to the Industrial Commission, (4) provides that the Industrial Commission must adopt temporary and permanent rules and establish fees to carry out its duties under the Act, (5) provides that the definition of "employment" includes service involving delivery or distribution of newspapers or shopping news or involving the sale of newspapers or magazines, (6) deletes the provision providing that it is a rebuttable presumption that the term "employee" does not include any person performing newspaper or magazine sales under an arrangement where the newspapers or magazines are sold to the ultimate consumers at a fixed price and the person's compensation is based on the retention of the excess of the fixed price over the amount at which the newspapers or magazines are charged to the person, (7) deletes the appropriation from the bill, and (8) makes technical and conforming changes.*

BILL ANALYSIS:

PART I. EMPLOYEE FAIR CLASSIFICATION ACT

Section 1 would create a new Article in Chapter 143 of the General Statutes entitled the "Employee Fair Classification Act" (Act).

Employee Classification Division: The PCS would establish the Employee Classification Division (Division) in the Department of Revenue to carry out the purposes of the Act. The Secretary of Revenue would appoint the Director of the Division. The Division would have the following duties:

- Be available to receive reports of employee misclassification by telephonic, written, or electronic communication.
- Investigate reports of employee misclassification and assist all relevant State agencies in recovering any back taxes, wages, benefits, penalties, or other monies as a result of employee misclassification.
- Assess administrative civil penalties for instances of employee misclassification.
- Coordinate with relevant State agencies and District Attorneys' offices in the prosecution of employers and individuals who fail to pay civil assessments or penalties assessed as a result of the employer or individual's involvement in employee misclassification.

O. Walker Reagan
Director



Research Division
(919) 733-2578

House Bill 482

Page 2

- Provide all relevant information pertaining to each instance of reported employee misclassification to the North Carolina Department of Labor, the North Carolina Department of Revenue, the North Carolina Division of Employment Security, and the North Carolina Industrial Commission to facilitate investigation of potential statutory violations.
- Create a publicly available notice that includes the definition of employee misclassification and indicates the civil penalties.
- Develop methods and strategies for information sharing between State agencies in order to proactively identify possible instances of employee misclassification.
- Develop methods and strategies to educate employers, employees, and the public about proper classification of employees and the prevention of employee misclassification.

Informal Advisory Council: The Director must appoint an informal advisory council to assist with matters within the jurisdiction of the Division. The advisory council must meet at least quarterly and includes the following members:

- The following officers or their designee: Commissioner of Labor; Secretary of Revenue; Chairman of the Industrial Commission; the Assistant Secretary of Commerce for the Division of Employment Security, and the State Budget Director.
- A representative of workers in this State.
- A representative of employers in this State.

Reporting: The Division would issue annually on October 1 to the Joint Legislative Commission on Governmental Operations a report on the administration of the Article and any recommendations of the Division. The report would include: the number of reports of employee misclassification received; the number and amount of back taxes, wages, benefits, penalties, or other monies assessed; the amount of back taxes, wages, benefits, penalties, or other monies collected; and the number of cases referred to each State agency.

Determination of Independent Contractor Status: This provision is intended to codify the holding in *Hayes v. Board of Trustees of Elon College*. Any factors consistent with the holding, including the following factors, would be considered when determining whether an individual is an independent contractor:

- Whether the individual is engaged in an independent business, calling, or occupation.
- Whether the individual is to have the independent use of his or her special skill, knowledge, or training in the execution of the work.
- Whether the individual is doing a specified piece of work at a fixed price or for a lump sum or upon a quantitative basis.
- Whether the individual is not subject to discharge because he or she adopts one method of doing the work rather than another.
- Whether the individual is not in the regular employ of the other contracting party.
- Whether the individual is free to use such assistants as he or she may think proper.
- Whether the individual has full control over such assistants.
- Whether the individual selects his or her own time.

House Bill 482

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Acts taken to comply with laws or regulations shall not be considered as evidence contrary to an independent contractor determination.

Prohibition on Employee Misclassification and Civil Penalties: The PCS would prohibit employee misclassification. It is a violation for an employer to willfully or recklessly engage in employee misclassification. The term "willfully engage in employee misclassification" means to knowingly commit employee misclassification (avoiding tax liabilities and other obligations imposed by Chapter 95, Chapter 96, Chapter 97, or Chapter 105 of the General Statutes by misclassifying an employee as an independent contractor) where there is no good faith argument that an individual was an independent contractor.

If an employer is found by the Division to have willfully violated the Article and has been assessed back taxes, wages, benefits, penalties, or other monies by any State agency as a result of misclassifying one or more employees within the previous three calendar years, then subsequent violations as determined by the Division may result in civil penalties up to \$1,000 per misclassified employee. The Division considers the degree of willfulness or recklessness in determining the penalty.

An employer may appeal from a final finding of and penalty imposed by the Division within 60 days of receiving written notice by filing an appeal with the Industrial Commission. The employer has the right to appeal the decision of the Industrial Commission to the NC Court of Appeals within 30 days of receipt of the Industrial Commission's decision.

Temporary Amnesty Program: The Division would establish and administer a temporary amnesty program to encourage voluntary self-reporting by employers currently engaging in employee misclassification. Employers participating in this program would be immune from civil penalties for past instances of employee misclassification that are voluntarily self-reported.

The Division would establish procedures for participation in the temporary amnesty program. These procedures would require, at minimum, the employer file an application with the Division before October 1, 2016 and comply with all determinations and directives issued by the Division pursuant to this Act.

Nothing in this section would be construed to limit the liability of an employer in a civil or criminal matter not provided for by this Act.

Notice and Certification Requirement by Occupational Licensing Boards and Commissions: Every State occupational licensing board or commission would be required to include on every application for licensure, permit, or certification, a certification that the applicant has read and understands the employee misclassification notice provided by the Division. Every applicant for a license, permit, or certification shall certify that he or she has read and understands the misclassification notice. An occupational licensing board or commission would be required to deny the license, permit, or certification of any applicant who fails to comply with the certification requirement.

Confidentiality: The records of the Division would not be public records. This does not apply to civil penalty assessments or final orders relating to an appeal of a civil penalty assessment, or other enforcement actions taken by the Division. The Division may share records with State and federal agencies as permitted or required by law.

Taxicab Drivers: Section 1.2 would repeal G.S. 97-5.1, which creates a rebuttable presumption that taxicab drivers are independent contractors under the Workers' Compensation Act.

Rulemaking: The Division and the Industrial Commission must adopt rules and to carry out their authority under the Act.

House Bill 482

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Effective Date: The statutory provisions which establish the Division and which deal with confidentiality are effective when the PCS becomes law. The remainder of this section becomes effective January 1, 2016, and applies to instances of employee misclassification occurring on or after that date.

PART II. MISCLASSIFICATION NOTICE ADDED TO NCDOL POSTERS

Section 2 would require the Department of Labor to include on the required poster summarizing the Wage and Hour Act in covered businesses, a notice indicating the following:

- Any worker who is defined as an employee under the law shall be treated as an employee unless the individual is an independent contractor.
- Any employee who believes that he or she has been misclassified may report to the Division.
- The physical location, mailing address, telephone number, and email address where alleged incidents of misclassification occurred may be reported to the Division.

PART III. SANCTIONS AND OTHER REQUIREMENTS

Section 3.1 would authorize the State Licensing Board for General Contractors to refuse to issue or renew or revoke, suspend, or restrict a license or take disciplinary action if a civil penalty was imposed on a licensed general contractor pursuant to a violation of the Act and has been upheld upon final adjudication. This section would also direct the Board to adopt and publish guidelines referencing the prohibition on employee misclassification and providing that a violation of that prohibition is grounds for revocation of a license.

Section 3.1A would make an identical change to the law governing the disciplinary authority of the State Licensing Board for Plumbing, Heating, and Fire Sprinkler Contractors. The Board would also be authorized to conduct audits of the pay and project records of licensees in furtherance of the Act.

Section 3.1B would authorize the State Board of Examiners of Electrical Contractors, to conduct audits in furtherance of the Act.

Section 3.1C makes engaging in employee misclassification by an electrical contractor a prohibited activity under the Act.

Section 3.2 would make a vendor ineligible to enter into a contract with an agency of the State government if, within five years of the bid solicitation, the vendor has been assessed a civil penalty for a violation of the Act that has been upheld upon final adjudication.

Section 3.3 and 3.4 would require applicants subject to regulation and licensure by a county or city to certify to the county or city that they have read and understand the employee misclassification notice provided by the Division.

Section 3.5 and 3.6 would require owners of sites with work in progress subject to local inspection by the county or city to certify to the county or city that they have read and understand the employee misclassification notice provided by the Division.

PART IV. UNEMPLOYMENT INSURANCE AND WORKERS' COMPENSATION FOR NEWSPRINT EMPLOYEES

Section 4.1 would amend the definition of employment in Chapter 96, Employment Security, to add service involving delivery or distribution of newspapers or shopping news or involving the sale of newspapers or magazines.

House Bill 482

Page 5

Section 4.2 would delete a provision from the Workers' Compensation Act that creates a rebuttable presumption that the term "employee" does not include any person performing newspaper or magazine sales under an arrangement where the newspapers or magazines are sold to the ultimate consumers at a fixed price and the person's compensation is based on the retention of the excess of the fixed price over the amount at which the newspapers or magazines are charged to the person.

Section 4.3 provides that Sections 4.1 and 4.2 are effective when the act becomes law.

EFFECTIVE DATE: Except as otherwise provided, the PCS becomes effective January 1, 2016.

Karen Cochrane-Brown and Layla Cummings, Staff Attorneys with the Research Division, contributed substantially to this summary.



Rv105

SENATE JUDICIARY II PROSPECTIVE SPEAKER

SIGN-IN

9-16-15

NAME

ORGANIZATION

BILL
NO.

Cody HAND

NCHA

Madeline Keeter

Carrollmont Health

Rose Collins

NCHA

SAM WATTI

NC Dept of State Treasury

Leanne Wunner

NCSBA

Katherine Joyce

NCAFA

Bruce Mildner

NCSBA

Jonathan Kappler

UNC GA

Rachel Beaulieu

NCDPI

Amanda Horner

TSS

SENATE JUDICIARY II VISITOR SIGN-IN

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Daniel Baum	Troutman Sanders	
Sarah Seal	MP	
Paul G. Gorman	T. Gorman	
Lisa Martin	Cap. Ad	
Miller Nichols	Jordan Price	
Bailey Jones	NC DOC	
John Hoamanis	NC DOC	
Ceki Arthur	NCRMA	
Chris Agan	DOJ	
Cystal Coli	NC Trucking Assn	

Ruler
~~SENATE JUDICIARY II PROSPECTIVE SPEAKER~~
SIGN-IN

9-16-15

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Julie White	NLMHC	
Dana Sims	SA	
Kara Weishaar	SA	
Andy Walsh	SA	
Brian Mewad	WM	
Elizabeth Biser	BA	
Joanna Spruill	NLTFP	
Rob Lamm	RLA	
Greg Scott	NEMS	
Martha Hill Corneli	Carolinas Healthcare	

BILL
NO.

SENATE JUDICIARY II VISITOR SIGN-IN

NAME

ORGANIZATION

BILL
NO.

Sarah Bales

Breaker Ass

Hyden Bagner

FSP

Roston Jones

DOT

K 0100
~~SENATE JUDICIARY II PROSPECTIVE SPEAKER~~
SIGN-IN

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Steve Mange	NCRPA	
Tracy Kimbrell	Parker Poe	
Kathy Hawkins	Duke Energy	
Susan Vick	Duke Energy	
Bill Prustini	ASD	
Susanna Birdsong	ACLU	
Annaliese Dolph	DL	
Matt Gross	NCPA	

VISITOR REGISTRATION SHEET

Sen R/1A
(Committee Name)

9-16-15
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY
John McNamee	Policy Group
Day Lander	NKSTA
Phil Dwyer	Banking
Robert L. L...	A. L. L. & Co.
David Ferrell	VB
Jay Nichols	Ortho Carolina
Jake Carl	NCC
Robert Babcock	NCC
Tony S...	MUA
Tom Friedman	DST
Ryan Blackledge	Cona Health
Allison Stewart	Cardinal
David Heinen	NC Center for Impaired ABs
Erica Nelson	NCHA
Amanda St...	JDA
Carl McL...	TSS
John Hand...	MTS



VISITOR REGISTRATION SHEET

Sen Ruler

(Committee Name)

9-16-15

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

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Harry Lynch	MWC
Ken Melton	KMA
Suzanne Beasley	SEAN
David Collins	SEAN
Kevin Kaylor	Kaylor Law
CADY THOMAS	Forums Carolina 2
Wendy Kelly	"
Bill Rame	NC Justice Center
Tom Bean	EDF, NCSEA, NCLWF
Julie Robinson	NCSEA
Ryan Minto	Governor's Office
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BRADY	WM
Rebecca Rushton	Safran Law Offices



VISITOR REGISTRATION SHEET

Scot Rivley

(Committee Name)

7-16-11

Date

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Therby	Huck
Shirley	Uman
Erin Weiss	NEADS
David Anderson	Baptist Church
LP Penner	CS
Louise D	LALL
Martha Jenkins	ICR
MARTY BOCK	PRIME THERAPEUTICS
W	W
Alex Bowen	CCS
JOHN COOPER	CCS
Stephen Kohn	CCS
DANIEL VAN LIERE	VIDANT
JACKSON STANLEY	CCS
Betsy Bailey	CAGC
Alex Mills	KLG
Pat Teege	NMRS



MINUTES

Rules and Operations of the Senate

September 23, 2015

The Rules and Operations of the Senate committee met on September 16, 2015 at 2:00 p.m. The meeting was held in room 1027/1028 of the Legislative Building. Fourteen members of the committee were present. Senator Tom Apodaca presided.

Senator Apodaca introduced pages and Sergeant at Arms.

Senator Apodaca brought forth items on the agenda:

HB488, "Central Carolina CC/Bd. Of Trustees." Kara McCraw, Research division, explained the bill. Sen. Hise moved for favorable report. Motion carried.

HB 924, "Highway safety and salary changes" Sen. Jackson moved to bring PCS before committee. Motion carried. Senators Sanderson and Hise explained the bill. Sen. Hise offered an amendment. Sen. Hise explained amendment. Amendment passed. Jarrett Burr, Department of Public Safety further explained the bill. Senator Ford moved for unfavorable to the original bill, favorable to the PCS as amended. Motion carried.

HB 297, "DHHS Child Support Recommendations." Senator Jackson moved to bring PCS before the committee. Motion carried. Senator Barefoot explained the bill. Senator Barefoot sent forth an amendment. Amendment passed. Floor opened up for questions and discussion. Senator Brock moved for an unfavorable report to the original bill, favorable to PCS as amended. Motion carried.

HB 318, "Protect NC Workers' Act" Sen. Brock moved to bring PCS before committee. Motion carried. Senator Sanderson explained the bill. Kara Mcraw, research division, further explained the PCS. Sen. Apodaca opened up the floor for questions. Senator Brock moved for an unfavorable report to the original bill, favorable report to the PCS. Motion carried.



HB 8, "Restore Partisan Statewide Judicial Elections." Senator Harrington moved to bring PCS before committee for discussion. Senator Brock explained the PCS. Sen. Tucker moved for an unfavorable to original bill, favorable report to the PCS. Motion carried.

HB678, "Amend Innocence Commission Statutes." Sen. Hise moved to bring PCS before committee. Motion carried. Senator Wells explained the PCS. Senator Wade sent forth an amendment. Amendment passed. Senator Apodaca opened up the floor for questions. Senator Apodaca displaced the bill.

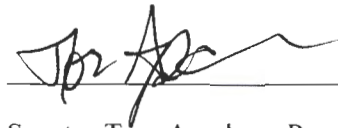
HB 373, "2016 Presidential Primary." Conference report for discussion. Senator Rucho explained the Conference report and it was discussed among the committee.

HB 272, "Speaker's Appointments Bills." Senator Harrington moved to bring the PCS before the committee. Motion carried. Senator Apodaca sent forth an amendment. Amendment passed. Senator Tucker moved for Unfavorable report to the original bill, favorable to the PCS. Motion carried.

HB 436, "Unauthorized practice of law." Sen. Jackson moved to bring the PCS before the committee. Motion carried. Senator Hartsell explained the PCS. Senator Newton moved for an unfavorable report to the original bill, favorable to the PCS. Motion carried.

SJR 721, "Adjournment Resolution" Senator Apodaca explained the resolution. Senator Brock moved for a favorable report. Motion carried.

Meeting adjourned at 3:35 p.m.



Senator Tom Apodaca, Presiding



Laura Kilian, Committee Assistant



Senate Committee on Rules and Operations of the Senate
Wednesday, September 23, 2015, 2:00 PM
1027/1128 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 318	Protect North Carolina Workers Act.	Representative Cleveland Representative Millis Representative Whitmire Representative Conrad
HB 8	Restore Partisan Statewide Judicial Elections.	Representative Jones Representative Iler Representative R. Brown Representative Jordan
HB 678	Amend Innocence Commission Statutes.	Representative Glazier Representative Daughtry Representative Stam Representative Reives
HB 272	Speaker's Appointments Bill 2015.	Representative B. Richardson
HB 488	Central Carolina CC/Bd. of Trustees.	Representative Reives Representative Salmon Representative Lewis
HB 924	Highway Safety/Salary Changes.	Representative Burr Representative Hager Representative Goodman
HB 297	DHHS Child Support Recommendations.-AB	Representative Burr Representative Stevens
HB 436	Unauthorized Practice of Law Changes.	Representative Daughtry Representative Bryan Representative Davis
SJR 721	Adjournment Resolution.	Senator Apodaca

Presentations

HB 373, "2016 Presidential Primary." Conference Report for Discussion and Recommendation





Other Business

Adjournment



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT
Senator Apodaca, Co-Chair**

Wednesday, September 23, 2015

Senator Apodaca,
submits the following with recommendations as to passage:

FAVORABLE

HB 488 Central Carolina CC/Bd. of Trustees.
 Draft Number: None
 Sequential Referral: None
 Recommended Referral: None
 Long Title Amended: No

SJR 721 Adjournment Resolution.
 Draft Number: None
 Sequential Referral: None
 Recommended Referral: None
 Long Title Amended: No

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE
SUBSTITUTE BILL**

HB 8 Restore Partisan Statewide Judicial Elections.
 Draft Number: H8-PCS10451-ST-93
 Sequential Referral: None
 Recommended Referral: None
 Long Title Amended: Yes

HB 297 DHHS Child Support Recommendations.-AB
 Draft Number: H297-PCS40521-TG-49
 Sequential Referral: None
 Recommended Referral: None
 Long Title Amended: Yes

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO
SENATE COMMITTEE SUBSTITUTE BILL**

HB 272 (CS#1) Speakers Appointments Bill 2015.
 Draft Number: H272-PCS10453-LG-9
 Sequential Referral: None
 Recommended Referral: None
 Long Title Amended: Yes



HB 436 (CS#1)

Unauthorized Practice of Law Changes.

Draft Number: H436-PCS40522-RO-32
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2, BUT FAVORABLE AS TO
SENATE COMMITTEE SUBSTITUTE BILL**

HB 318 (CS#2)

Protect North Carolina Workers Act.

Draft Number: H318-PCS10452-TC-60
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 7

Senator Ronald Rabin will handle HB 488
Senator Tom Apodaca will handle SJR 721
Senator Andrew Brock will handle HB 8
Senator John Barefoot will handle HB 297
Senator Tom Apodaca will handle HB 272
Senator Fletcher Hartsell will handle HB 436
Senator Norman Sanderson will handle HB 318



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**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT
Senator Apodaca, Co-Chair**

Wednesday, September 23, 2015

Senator Apodaca,
submits the following with recommendations as to passage:

**UNFAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 1, BUT
FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 2**

HB 924 (SCS#1)	Highway Safety/Salary Changes.
	Draft Number: H924-PCS10454-RW-48
	Sequential Referral: None
	Recommended Referral: None
	Long Title Amended: Yes

TOTAL REPORTED: 1

Senator Norman Sanderson will handle HB 924



* C M R 5 9 2 - V - 1 *

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

1

HOUSE BILL 8

Short Title: Restore Partisan Statewide Judicial Elections. (Public)

Sponsors: Representatives Jones, Iler, R. Brown, and Jordan (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Elections.

January 29, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO RESTORE PARTISAN STATEWIDE JUDICIAL ELECTIONS.
3 The General Assembly of North Carolina enacts:

4 SECTION 1. G.S. 163-106 reads as rewritten:
5 "§ 163-106. Notices of candidacy; pledge; with whom filed; date for filing; withdrawal.

6 ...
7 (c) Time for Filing Notice of Candidacy. – Candidates seeking party primary
8 nominations for the following offices shall file their notice of candidacy with the State Board of
9 Elections no earlier than 12:00 noon on the second Monday in February and no later than 12:00
10 noon on the last business day in February preceding the primary:

11 Governor
12 Lieutenant Governor
13 All State executive officers
14 Justices of the Supreme Court
15 Judges of the Court of Appeals
16 United States Senators
17 Members of the House of Representatives of the United States
18 District attorneys

19 Candidates seeking party primary nominations for the following offices shall file their
20 notice of candidacy with the county board of elections no earlier than 12:00 noon on the second
21 Monday in February and no later than 12:00 noon on the last business day in February
22 preceding the primary:

23 State Senators
24 Members of the State House of Representatives
25 All county offices.

26 (d) Notice of Candidacy for Certain Offices to Indicate Vacancy. – In any primary in
27 which there are two or more vacancies for associate justices for the Supreme Court, two or
28 more vacancies for the Court of Appeals, or two vacancies for United States Senator from
29 North Carolina, each candidate shall, at the time of filing notice of candidacy, file with the
30 State Board of Elections a written statement designating the vacancy to which ~~he~~ the candidate
31 seeks nomination. Votes cast for a candidate shall be effective only for ~~his~~ the candidate
32 vacancy for which ~~he~~ the candidate has given notice of candidacy as provided in this
33 subsection.

34"

35 SECTION 2. G.S. 163-107(a) reads as rewritten:



"(a) Fee Schedule. – At the time of filing a notice of candidacy, each candidate shall pay to the board of elections with which ~~he~~ the candidate files under the provisions of G.S. 163-106 a filing fee for the office ~~he seeks~~ sought in the amount specified in the following tabulation:

Office Sought	Amount of Filing Fee
Governor	One percent (1%) of the annual salary of the office sought
Lieutenant Governor	One percent (1%) of the annual salary of the office sought
All State executive offices	One percent (1%) of the annual salary of the office sought
All <u>Justices of the Supreme Court, Judges of the Court of Appeals, and District Attorneys of the General Court of Justice</u>	One percent (1%) of the annual salary of the office sought
United States Senator	One percent (1%) of the annual salary of the office sought
Members of the United States House of Representatives	One percent (1%) of the annual salary of the office sought
State Senator	One percent (1%) of the annual salary of the office sought
Member of the State House of Representatives	One percent (1%) of the annual salary of the office sought
All county offices not compensated by fees	One percent (1%) of the annual salary of the office sought
All county offices compensated partly by salary and partly by fees	One percent (1%) of the first annual salary to be received (exclusive of fees)

The salary of any office that is the basis for calculating the filing fee is the starting salary for the office, rather than the salary received by the incumbent, if different. If no starting salary can be determined for the office, then the salary used for calculation is the salary of the incumbent, as of January 1 of the election year."

SECTION 3. G.S. 163-107.1(b) reads as rewritten:

"(b) If the candidate is seeking the office of United States Senator, Governor, Lieutenant Governor, ~~or any State executive officer, Justice of the Supreme Court, or Judge of the Court of Appeals,~~ the petition must be signed by 10,000 registered voters who are members of the political party in whose primary the candidate desires to run, except that in the case of a political party as defined by G.S. 163-96(a)(2) which will be making nominations by primary election, the petition must be signed by five percent (5%) of the registered voters of the State who are affiliated with the same political party in whose primary the candidate desires to run, or in the alternative, the petition shall be signed by no less than 8,000 registered voters regardless of the voter's political party affiliation, whichever requirement is greater. The petition must be filed with the State Board of Elections not later than 12:00 noon on Monday preceding the filing deadline before the primary in which he seeks to run. The names on the petition shall be verified by the board of elections of the county where the signer is registered, and the petition must be presented to the county board of elections at least 15 days before the petition is due to be filed with the State Board of Elections. When a proper petition has been filed, the candidate's name shall be printed on the primary ballot."

SECTION 4. G.S. 163-111(c)(1) reads as rewritten:

"(c) Procedure for Requesting Second Primary.

- (1) A candidate who is apparently entitled to demand a second primary, according to the unofficial results, for one of the offices listed below, and

desiring to do so, shall file a request for a second primary in writing with the Executive Director of the State Board of Elections no later than 12:00 noon on the ninth day (including Saturdays and Sundays) following the date on which the primary was conducted, and such request shall be subject to the certification of the official results by the State Board of Elections. If the vote certification by the State Board of Elections determines that a candidate who was not originally thought to be eligible to call for a second primary is in fact eligible to call for a second primary, the Executive Director of the State Board of Elections shall immediately notify such candidate and permit ~~him~~ the candidate to exercise any options available to ~~him~~ the candidate within a 48-hour period following the notification:

Governor,
Lieutenant Governor,
All State executive officers,
Justices of the Supreme Court, Judges of the Court of Appeals, or
District Attorneys of the General Court of Justice,
United States Senators,
Members of the United States House of Representatives,
State Senators in multi-county senatorial districts, and
Members of the State House of Representatives in multi-county representative districts."

SECTION 5. Subchapter X of Chapter 163 of the General Statutes reads as rewritten:

**"SUBCHAPTER X. ELECTION OF ~~APPELLATE, SUPERIOR, SUPERIOR AND~~
DISTRICT COURT JUDGES.**

"Article 25.

"Nomination and Election of ~~Appellate, Superior, Superior and~~ District Court Judges.

"§ 163-321. Applicability.

The nomination and election of ~~justices of the Supreme Court, judges of the Court of Appeals, and~~ superior and district court judges of the General Court of Justice shall be as provided by this Article.

...

"§ 163-323. Notice of candidacy.

...

(b) Time for Filing Notice of Candidacy. – Candidates seeking election to the following offices shall file their notice of candidacy with the State Board of Elections no earlier than 12:00 noon on the second Monday in February and no later than 12:00 noon on the last business day in February preceding the election:

~~Justices of the Supreme Court.~~

~~Judges of the Court of Appeals.~~

Judges of the superior courts.

Judges of the district courts.

...

(f) Notice of Candidacy for Certain Offices to Indicate Vacancy. – In any election in which there are two or more vacancies for the office of ~~justice of the Supreme Court, judge of the Court of Appeals, or~~ district court judge to be filled by nominations, each candidate shall, at the time of filing notice of candidacy, file with the State Board of Elections a written statement designating the vacancy to which the candidate seeks election. Votes cast for a candidate shall be effective only for election to the vacancy for which the candidate has given notice of candidacy as provided in this subsection.

1 A person seeking election for a specialized district judgeship established under G.S. 7A-147
2 shall, at the time of filing notice of candidacy, file with the State Board of Elections a written
3 statement designating the specialized judgeship to which the person seeks nomination.

4 ...
5 **"§ 163-325. Petition in lieu of payment of filing fee.**

6 ...
7 (b) Requirements of Petition; Deadline for Filing. – If the candidate is seeking the
8 office of ~~justice of the Supreme Court, judge of the Court of Appeals, or~~ superior or district
9 court judge, that individual shall file a written petition with the State Board of Elections no
10 later than 12:00 noon on Monday preceding the filing deadline before the primary. ~~If the office~~
11 ~~is justice of the Supreme Court or judge of the Court of Appeals, the petition shall be signed by~~
12 ~~8,000 registered voters in the State. If the office is superior court or district court judge, the~~ The
13 petition shall be signed by five percent (5%) of the registered voters of the election area in
14 which ~~the office will be voted for. the registered voters will vote for the office.~~ The board of
15 elections shall verify the names on the petition, and if the petition and notice of candidacy are
16 found to be sufficient, the candidate's name shall be printed on the appropriate ballot. Petitions
17 must be presented to the county board of elections for verification at least 15 days before the
18 petition is due to be filed with the State Board of Elections. The State Board of Elections may
19 adopt rules to implement this section and to provide standard petition forms.

20 **"§ 163-326. Certification of notices of candidacy.**

21 ...
22 (b) Notification of Local Boards. – No later than 10 days after the time for filing notices
23 of candidacy under the provisions of G.S. 163-323(b) has expired, the chairman of the State
24 Board of Elections shall certify to the chairman of the county board of elections in each county
25 in the appropriate district the names of candidates for nomination to the offices of ~~justice of the~~
26 ~~Supreme Court, judge of the Court of Appeals, and~~ superior and district court judge who have
27 filed the required notice and paid the required filing fee or presented the required petition to the
28 State Board of Elections, so that their names may be printed on the official judicial ballot for
29 ~~justice of the Supreme Court, judge of the Court of Appeals, and~~ superior and district court.

30 ...
31 **"§ 163-329. Elections to fill vacancy in office created after primary filing period opens.**

32 (a) General. – If a vacancy is created in the office of ~~justice of the Supreme Court,~~
33 ~~judge of the Court of Appeals, or~~ judge of superior court after the filing period for the primary
34 opens but more than 60 days before the general election, and under the Constitution of North
35 Carolina an election is to be held for that position, such that the office shall be filled in the
36 general election as provided in G.S. 163-9, the election to fill the office for the remainder of the
37 term shall be conducted without a primary using the method provided in subsection (b1) of this
38 section. If a vacancy is created in the office of ~~justice of the Supreme Court, judge of the Court~~
39 ~~of Appeals, or~~ judge of superior court before the filing period for the primary opens, and under
40 the Constitution of North Carolina an election is to be held for that position, such that the office
41 shall be filled in the general election as provided in G.S. 163-9, the election to fill the office for
42 the remainder of the term shall be conducted in accordance with G.S. 163-322.

43 (b) Repealed by Session Laws 2006-192, s. 8(a), effective August 3, 2006, and
44 applicable to vacancies occurring on or after that date.

45 (b1) Method for Vacancy Election. – If a vacancy for the office of ~~justice of the Supreme~~
46 ~~Court, judge of the Court of Appeals, or~~ judge of the superior court occurs more than 60 days
47 before the general election and after the opening of the filing period for the primary, then the
48 State Board of Elections shall designate a special filing period of one week for candidates for
49 the office. If more than two candidates file and qualify for the office in accordance with
50 G.S. 163-323, then the Board shall conduct the election for the office as follows:

- 1 (1) When the vacancy described in this section occurs more than 63 days before
2 the date of the second primary for members of the General Assembly, a
3 special primary shall be held on the same day as the second primary. The
4 two candidates with the most votes in the special primary shall have their
5 names placed on the ballot for the general election held on the same day as
6 the general election for members of the General Assembly.
- 7 (2) When the vacancy described in this section occurs less than 64 days before
8 the date of the second primary, a general election for all the candidates shall
9 be held on the same day as the general election for members of the General
10 Assembly and the results shall be determined on a plurality basis as provided
11 by G.S. 163-292.
- 12 (3) Repealed by Session Laws 2013-381, s. 51.1, effective January 1, 2014.
- 13 (c) Applicable Provisions. – Except as provided in this section, the provisions of this
14 Article apply to elections conducted under this section.
- 15 (d) Rules. – The State Board of Elections shall adopt rules for the implementation of
16 this section. The rules are not subject to Article 2A of Chapter 150B of the General Statutes.
17 The rules shall include the following:
- 18 (1) If after the first-choice candidate is eliminated, a ballot does not indicate one
19 of the uneliminated candidates as an alternative choice, the ballot is
20 exhausted and shall not be counted after the initial round.
- 21 (2) The fact that the voter does not designate a second or third choice does not
22 invalidate the voter's higher choice or choices.
- 23 (3) The fact that the voter gives more than one ranking to the same candidate
24 shall not invalidate the vote. The highest ranking given a particular candidate
25 shall count as long as the candidate is not eliminated.
- 26 (4) In case of a tie between candidates such that two or more candidates have an
27 equal number of first choices and more than two candidates qualify for the
28 second round, instant runoff voting shall be used to determine which two
29 candidates shall advance to the second round.

30 ...
31 **"§ 163-332. Ballots.**

32 ...
33 (b) Ballots to Be Furnished by County Board of Elections. – It shall be the duty of the
34 county board of elections to print official ballots for the following offices to be voted for in the
35 primary:

36 ~~Justice of the Supreme Court.~~

37 ~~Judge of the Court of Appeals.~~

38 Superior court judge.

39 District court judge.

40 In printing ballots, the county board of elections shall be governed by instructions of the
41 State Board of Elections with regard to width, color, kind of paper, form, and size of type.

42 Three days before the election, the chairman of the county board of elections shall
43 distribute official ballots to the chief judge of each precinct in his county, and the chief judge
44 shall give a receipt for the ballots received. On the day of the primary, it shall be the chief
45 judge's duty to have all the ballots so delivered available for use at the precinct voting place.

46"

47 **SECTION 6.** This act becomes effective with respect to primaries and elections
48 held on or after January 1, 2016.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

D

HOUSE BILL 8
PROPOSED SENATE COMMITTEE SUBSTITUTE H8-CSST-93 [v.13]

9/22/2015 9:02:58 PM

Short Title: Court of Appeals Election Modifications.

(Public)

Sponsors:

Referred to:

January 29, 2015

A BILL TO BE ENTITLED
AN ACT TO CREATE OPEN JUDICIAL ELECTIONS WITH PARTY DESIGNATIONS
FOR THE COURT OF APPEALS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-165.5 reads as rewritten:

"§ 163-165.5. Contents of official ballots.

Each official ballot shall contain all the following elements:

- (1) The heading prescribed by the State Board of Elections. The heading shall include the term "Official Ballot".
- (2) The title of each office to be voted on and the number of seats to be filled in each ballot item.
- (3) The names of the candidates as they appear on their notice of candidacy filed pursuant to G.S. 163-106 or G.S. 163-323, or on petition forms filed in accordance with G.S. 163-122. No title, appendage, or appellation indicating rank, status, or position shall be printed on the official ballot in connection with the candidate's name. Candidates, however, may use the title Mr., Mrs., Miss, or Ms. Nicknames shall be permitted on an official ballot if used in the notice of candidacy or qualifying petition, but the nickname shall appear according to standards adopted by the State Board of Elections. Those standards shall allow the presentation of legitimate nicknames in ways that do not mislead the voter or unduly advertise the candidacy. In the case of candidates for presidential elector, the official ballot shall not contain the names of the candidates for elector but instead shall contain the nominees for President and Vice President which the candidates for elector represent. The State Board of Elections shall establish a review procedure that local boards of elections shall follow to ensure that candidates' names appear on the official ballot in accordance with this subdivision.
- (4) Party designations in partisan ballot ~~items~~ items and in nonpartisan ballot items as required by G.S. 163-323(h).
- (5) A means by which the voter may cast write-in votes, as provided in G.S. 163-123. No space for write-ins is required unless a write-in candidate has qualified under G.S. 163-123 or unless the ballot item is exempt from G.S. 163-123.
- (6) Instructions to voters, unless the State Board of Elections allows instructions to be placed elsewhere than on the official ballot.



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1 (7) The printed title and facsimile signature of the chair of the county board of
2 elections."

3 **SECTION 2.** G.S. 163-323 is amended by adding a new subsection to read:

4 "(h) A candidate for Judge of the Court of Appeals, at the time of filing the notice of
5 candidacy under this section, shall indicate on the notice of candidacy the political party
6 recognized under Article 9 of this Chapter with which that candidate is affiliated or any
7 unaffiliated status. The certificate required by subsection (d) of this section shall verify the
8 party designation or unaffiliated status and the verified party designation or unaffiliated status
9 shall be included on the ballot."

10 **SECTION 3.** This act is effective when it becomes law, and applies to elections
11 held on or after that date.





HOUSE BILL 8: Court of Appeals Election Modifications

2015-2016 General Assembly

Committee: Rules and Operations of the Senate
Introduced by: Reps. Jones, Iler, R. Brown, Jordan
Analysis of: PCS to First Edition
H8-CSST-93

Date: September 23, 2015
Prepared by: R. Erika Churchill,
Kara McCraw, and
Kelly Q. Tornow,
Committee Counsel

SUMMARY: *The proposed committee substitute for House Bill 8 would require candidates running in non-partisan races for Court of Appeals judge to have that candidate's party affiliation printed on the ballot.*

CURRENT LAW: Non-partisan elections are conducted for the following offices, without the party affiliation of any candidate being listed on the ballot for that office:

- Appellate judge
- Superior court judge
- District court judge
- Local school board, with some exceptions
- Municipal elections, with some exceptions
- Sanitary boards established under Chapter 130A of the General Statutes
- Soil and Water Conservation boards established under Chapter 139 of the General Statutes

BILL ANALYSIS: For Court of Appeals judge, the PCS would require a candidate to disclose that candidate's party affiliation and for the party affiliation to be printed on the ballot.

The PCS also makes a conforming change to allow for the printing of party affiliation on the ballot in Court of Appeals races.

EFFECTIVE DATE: Effective when it becomes law, and applies to elections conducted on or after that date.

O. Walker Reagan
Director



Research Division
(919) 733-2578



201



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

2

HOUSE BILL 678
Committee Substitute Favorable 4/28/15

Short Title: Amend Innocence Commission Statutes.

(Public)

Sponsors:

Referred to:

April 14, 2015

A BILL TO BE ENTITLED
AN ACT TO MAKE VARIOUS AMENDMENTS TO THE LAWS REGARDING THE
INNOCENCE COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-1475 reads as rewritten:

"§ 15A-1475. Reports.

(a) The North Carolina Innocence Inquiry Commission shall report annually by February 1 of each year on its activities to the Joint Legislative Oversight Committee on Justice and Public Safety and the State Judicial Council. The report may contain recommendations of any needed legislative changes related to the activities of the Commission. The report shall recommend the funding needed by the Commission, the district attorneys, and the State Bureau of Investigation in order to meet their responsibilities under S.L. 2006-184. Recommendations concerning the district attorneys or the State Bureau of Investigation shall only be made after consultations with the North Carolina Conference of District Attorneys and the Attorney General.

(b) The Commission shall submit to the Director of the Administrative Office of the Courts a semi-annual report containing detailed data on the operations, expenses, and needs of the Commission and such other information as the Director of the Administrative Office of the Courts may require."

SECTION 2. G.S. 15A-1467 is amended by adding a new subsection to read:

"(h) At least every six months, the Director shall provide a confidential case status update to the district attorney and defense counsel for each case in formal inquiry. If there is no defense counsel, the update shall be provided to the referring counsel."

SECTION 3. G.S. 15A-1468 reads as rewritten:

"§ 15A-1468. Commission proceedings.

(a) At the completion of a formal inquiry, all relevant evidence shall be presented to the full Commission. ~~As part of its proceedings, the Commission may conduct public hearings. The determination as to whether to conduct public hearings is solely in the discretion of the Commission.~~ Commission in a public hearing. Any public hearing held in accordance with this section shall be subject to the Commission's rules of operation.

(a1) The Commission may compel the testimony of any witness. If a witness asserts his or her privilege against self-incrimination in a proceeding under this Article, the Commission chair, in the chair's judicial capacity, may order the witness to testify or produce other information if the chair first determines that the witness's testimony will likely be material to the investigation necessary to reach a correct factual determination in the case at hand. However, the Commission chair shall not order the witness to testify or produce other



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1 information that would incriminate the witness in the prosecution of any offense other than an
2 offense for which the witness is granted immunity under this subsection. The order shall
3 prevent a prosecutor from using the compelled testimony, or evidence derived therefrom, to
4 prosecute the witness for previous false statements made under oath by the witness in prior
5 proceedings. The prosecutor has a right to be heard by the Commission chair prior to the chair
6 issuing the order. Once granted, the immunity shall apply throughout all proceedings conducted
7 pursuant to this Article. The limited immunity granted under this section shall not prohibit
8 prosecution of statements made under oath that are unrelated to the Commission's formal
9 inquiry, false statements made under oath during proceedings under this Article, or prosecution
10 for any other crimes.

11 (a2) The Innocence Inquiry Commission shall include, as part of its rules of operation,
12 the holding of a prehearing conference to be held at least 10 days prior to any proceedings of
13 the full Commission. Only the following persons shall be notified and authorized to attend the
14 prehearing conference: the District Attorney, or the District Attorney's designee, of the district
15 where the claimant was convicted of the felony upon which the claim of factual innocence is
16 based; the claimant's counsel, if any; the Chair of the Commission; the Executive Director of
17 the Commission; and any Commission staff designated by the Director. The District Attorney,
18 or designee, shall be provided (i) an opportunity to inspect any evidence that may be presented
19 to the Commission that has not previously been presented to any judicial officer or body and
20 (ii) any information that he or she deems relevant to the proceedings. ~~Prior~~ At least 24 hours
21 prior to any Commission proceedings, the District Attorney or designee is authorized to provide
22 the Commission with a written statement, which shall be ~~included in the record of the~~
23 ~~Commission's proceedings. Any statement included in the record shall be part of the~~
24 ~~Commission's record of proceedings pursuant to subsection (e) of this section.~~ part of the
25 record.

26 (b) The Director shall use all due diligence to notify the victim at least 30 days prior to
27 any proceedings of the full Commission held in regard to the victim's case. The Commission
28 shall notify the victim that the victim is permitted to attend proceedings otherwise closed to the
29 public, subject to any limitations imposed by this Article. If the victim plans to attend
30 proceedings otherwise closed to the public, the victim shall notify the Commission at least 10
31 days in advance of the proceedings of his or her intent to attend.

32 (c) After hearing the evidence, the full Commission shall vote to establish further case
33 disposition as provided by this subsection. All eight voting members of the Commission shall
34 participate in that vote.

35 Except in cases where the convicted person entered and was convicted on a plea of guilty, if
36 five or more of the eight voting members of the Commission conclude there is sufficient
37 evidence of factual innocence to merit judicial review, the case shall be referred to the senior
38 resident superior court judge in the district of original jurisdiction by filing with the clerk of
39 court the opinion of the Commission with supporting findings of fact, as well as the record in
40 support of such opinion, with service on the convicted person or the convicted person's counsel,
41 if any, and the district attorney in noncapital cases ~~and or~~ service on both the district attorney
42 and Attorney General in capital cases. In cases where the convicted person entered and was
43 convicted on a plea of guilty, if all of the eight voting members of the Commission conclude
44 there is sufficient evidence of factual innocence to merit judicial review, the case shall be
45 referred to the senior resident superior court judge in the district of original jurisdiction.

46 If less than five of the eight voting members of the Commission, or in cases where the
47 convicted person entered and was convicted on a guilty plea less than all of the eight voting
48 members of the Commission, conclude there is sufficient evidence of factual innocence to merit
49 judicial review, the Commission shall conclude there is insufficient evidence of factual
50 innocence to merit judicial review. The Commission shall document that opinion, along with
51 supporting findings of fact, and file those documents and supporting materials with the clerk of

1 superior court in the district of original jurisdiction, with a copy to the convicted person or the
2 convicted person's counsel, if any, the district attorney and the senior resident superior court
3 judge.

4 The Director of the Commission shall use all due diligence to notify immediately the victim
5 of the Commission's conclusion in a case.

6 (d) Evidence of criminal acts, professional misconduct, or other wrongdoing disclosed
7 through formal inquiry or Commission proceedings shall be referred to the appropriate
8 authority. Evidence favorable to the convicted person disclosed through formal inquiry or
9 Commission proceedings shall be disclosed to the convicted person and the convicted person's
10 counsel, if the convicted person has counsel.

11 (e) All proceedings of the Commission shall be recorded and transcribed as part of the
12 record. All Commission member votes shall be recorded in the record. ~~All records and~~
13 ~~proceedings of the Commission are confidential and are exempt from public record and public~~
14 ~~meeting laws except that the~~ The supporting records for the Commission's conclusion that there
15 is sufficient evidence of factual innocence to merit judicial review, including all files and
16 materials considered by the Commission and a full transcript of the hearing before the
17 Commission, shall become public ~~at the time of referral to when filed with the superior court.~~
18 court as required in subsection (c) of this section. Commission records for conclusions of
19 insufficient evidence of factual innocence to merit judicial review shall remain confidential,
20 except as provided in subsection (d) of this section.

21 (f) Except as otherwise provided in this section, all files and records not filed with the
22 clerk of superior court or presented at the hearings are confidential and exempt from the public
23 record. Upon completion of the Commission hearing, the Commission shall make available to
24 the district attorney and defense counsel a copy of the entire file, including a full transcript of
25 the hearing before the Commission. That file shall remain confidential and may not be released
26 by the district attorney or defense counsel until filed with the clerk of superior court.

27 (g) With respect to the evidence presented to the three judge panel, the district attorney
28 and defense counsel may determine which evidence, if any, will be presented to the three judge
29 panel."

30 **SECTION 4.** G.S. 15A-1471 is amended by adding a new subsection to read:

31 "(e) Upon request, the Commission shall have the authority to search any location where
32 files or evidence are reasonably likely to be stored relating to a claim subject to the
33 Commission's inquiry. The Commission shall provide the head of the agency to be searched, or
34 his or her designee, with proposed search procedures in advance of the search. The
35 Commission will make reasonable efforts to accommodate the agency without compromising
36 the validity of the search. The agency shall permit the Commission to conduct its search within
37 two weeks of the search procedure being provided or at a mutually agreed upon time."

38 **SECTION 5.** This act is effective when it becomes law.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

D

HOUSE BILL 678
Committee Substitute Favorable 4/28/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H678-CSST-95 [v.7]

9/22/2015 8:32:24 PM

Short Title: Limit Electronic Sweepstakes Machines.

(Public)

Sponsors:

Referred to:

April 14, 2015

A BILL TO BE ENTITLED
AN ACT TO LIMIT ELECTRONIC SWEEPSTAKES MACHINES TO NO MORE THAN
FOUR MACHINES PER LOCATION.

The General Assembly of North Carolina enacts:

SECTION 1. Part 1 of Article 37 of Chapter 14 of the General Statutes is amended
by adding a new section to read:

"§ 14-306.5. Limitations on machines during periods of court imposed injunction.

(a) A person may possess and place into operation, solely for the period of any court
ordered injunction, no more than four video gaming machines as defined in G.S. 14-306.1A or
electronic machines or devices as defined in G.S. 14-306.4 in a single location provided all of
the following conditions are met:

- (1) The person otherwise complies with all of the provisions of this Article.
- (2) The person complies with all applicable zoning laws.
- (3) The person has not been convicted of any violations of this Article or of any
federal gaming laws.
- (4) The machines are not located within 500 feet of any other machines
possessed and operated under this section.
- (5) The person is operating a business that generates more than fifty percent of
the business income from sources other than the machines.
- (6) The number of video gaming machines and electronic machines or devices
together in a single location shall not exceed four.
- (7) The court of competent jurisdiction enjoined the enforcement of
G.S. 14-306.1A, G.S. 14-306.3, or G.S. 14-306.4.
- (8) The person ceases operation of the video machines or electronic machines
devices immediately upon the court removing the injunction.

(b) Use of a machine possessed and operated in compliance with this section shall not
constitute a violation of this Part by a user.

(c) Any alcohol law-enforcement agent and any other law enforcement officer shall
have the authority and right to inspect any and all premises and machines for compliance with
this section."

SECTION 2. This act becomes effective December 1, 2015, and applies to
offenses committed on or after that date.



* H 6 7 8 - C S S T - 9 5 - V - 7 *





HOUSE BILL 678: Limit Electronic Sweepstakes Machines

2015-2016 General Assembly

Committee: Rules and Operations of the Senate
Introduced by: Reps. Glazier, Daughtry, Stam, Reives
Analysis of: PCS to Second Edition
H678-CSST-95

Date: September 23, 2015
Prepared by: R. Erika Churchill
Kelly Q. Tornow
Committee Counsel

SUMMARY: *The proposed committee substitute for House Bill 678 would remove the contents of the 2nd edition of House Bill 678 and substitute provisions to limit the number of electronic sweepstakes machines in a single location under limited circumstances.*

CURRENT LAW: Article 37 of Chapter 14 governs lotteries, gaming, bingo and raffles in North Carolina. Generally under that Article, all gambling is illegal in North Carolina regardless of the type of game or the medium in which it is played. Several types of gaming machines are specifically outlawed for possession and play:

- **Slot Machines:** A slot machine is any machine which can be activated by putting any "piece of money, coin, or other object" into the machine, which causes it to operate and the user will receive anything of "value or otherwise"—including additional rights to use the machine (credits).
- **Video Gaming Machines:** Video gaming machines are illegal. The definition of "video gaming machine" includes (i) slot machines, and (ii) other forms of electrical, mechanical, or computer games. It is a video machine that requires any method of payment to activate the game. Examples of video games are video poker (or any other kind of card game), video bingo, or any video game based on the random matching of different words, numbers, or symbols, and that is not dependent on the player's skill or dexterity. The statute specifically does not allow the exception to the slot machine law that allows for the pay-out of merchandise of a value of \$10 or less.
- **Server Based Game Promotions:** In 2008, the General Assembly made it illegal to possess a game terminal with a display that simulates a game that is ordinarily played on a slot machine, or video gaming machine. However, the system must meet all four of the following criteria, or it is not covered under the law:
 - 1) A database contains a pool of entries with each entry associated with a prize value.
 - 2) Participants obtain a prepaid card.
 - 3) With each prepaid card, the participant obtains one or more entries.
 - 4) Entries are revealed at a point-of-sale terminal, or at a game terminal with a display that simulates a game ordinarily played on a slot machine or a video gaming machine.
- **Electronic machine or device for Sweepstakes:** In 2010, the General Assembly made it illegal to operate, or place into operation, an electronic machine or device to do either of the following:
 - (1) Conduct a sweepstakes through the use of an entertaining display, including the entry process or the reveal of a prize.

O. Walker Reagan
Director



Research Division
(919) 733-2578

House Bill 678

Page 2

- (2) Promote a sweepstakes that is conducted through the use of an entertaining display, including the entry process or the reveal of a prize.

Exceptions:

- Vending machines – Put a given amount in which is associated with a specific item which is dispensed every time
- Juke boxes – Insert coins and hear music or see videos.
- Legal Slot Machines – All coin-operated machines, video games, pinball machines, and other computer, electronic or mechanical devices that meet all of the following:
 1. Are operated and played for amusement.
 2. Involve the use of skill or dexterity to solve problems or tasks, or to make varying scores.
 3. Comply with either of the following:
 - a. Does not display, emit, or otherwise record anything which is capable of being redeemed for cash, prizes, or free replays.
 - b. Limit the player to 8 credits or replays at one time, and which may award free replays or coupons that may be exchanged for prizes or merchandise with a value not over \$10. The prize or merchandise may not be converted to money.

BILL ANALYSIS: The PCS would add a new statutory provision to Article 37 of Chapter 14 that would allow a person to possess and place into operation, solely for the period of any court ordered injunction, no more than 4 video gaming machines or electronic machines or devices in a single location provided all of the following conditions are met:

- The person otherwise complies with all of the provisions of Article 37 of Chapter 14.
- The person complies with all applicable zoning laws.
- The person has not been convicted of any violations of this Article or of any federal gaming laws.
- The machines are not located within 500 feet of any other machines similarly possessed and operated.
- The person is operating a business that generates more than fifty percent of the business income from sources other than the machines.
- The number of video gaming machines and electronic machines or devices together in a single location shall not exceed four.
- The court of competent jurisdiction enjoined the enforcement of G.S. 14-306.1A, G.S. 14-306.3, or G.S. 14-306.4.
- The person ceases operation of the video gaming machines or electronic machines or devices immediately upon the court removing the injunction.

Use of a machine possessed and operated in compliance with this section is not a violation of the gaming prohibitions by the user.

Any alcohol law-enforcement agent and any other law enforcement officer will have the authority and right to inspect any and all premises and machines for compliance.

EFFECTIVE DATE: December 1, 2015, and applies to offenses committed on or after that date.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 678

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H678-AST-157 [v.2]

Page 1 of 1

Amends Title [NO]
H678-CSST-95

Date _____, 2015

Senator Wade

- 1 moves to amend the bill on page 1, line 24, by inserting "gaming" between "video" and
2 "machines" on that line;
3
4 and on page 1, line 24, by inserting "or" at the end of that line.

SIGNED

Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED

FAILED

TABLED



* H 6 7 8 - A S T - 1 5 7 - V - 2 *

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

D

HOUSE BILL 373
Committee Substitute Favorable 4/16/15
Senate Redistricting Committee Substitute Adopted 7/20/15
Proposed Conference Committee Substitute H373-CCSST-10 [v.5]

9/23/2015 1:55:24 PM

Short Title: Elections

(Public)

Sponsors:

Referred to:

March 30, 2015

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH PROCEDURES FOR THE CONDUCT OF THE 2016
PRIMARIES, INCLUDING THE PRESIDENTIAL PREFERENCE PRIMARY, AND TO
MAKE CHANGES TO THE CAMPAIGN FINANCE LAWS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Conduct of 2016 Presidential Preference Primary Election. –
Notwithstanding Article 18A of Chapter 163 of the General Statutes, the 2016 presidential
preference primary election shall be conducted as provided in this act.

SECTION 1.(b) Primary Date. – On March 15, 2016, the voters of this State shall
be given an opportunity to express the voters' preference for the person to be the presidential
candidate of the voters' political party.

SECTION 1.(c) Qualifications and Registration of Voters. – Any person otherwise
qualified who will become qualified by age to vote in the general election held in 2016 shall be
entitled to register and vote in the 2016 presidential preference primary. Such persons may
register not earlier than 60 days nor later than the last day for making application to register
under G.S. 163-82.6 prior to the said primary. In addition, persons who will become qualified
by age to register and vote in the 2016 general election who do not register during the special
period may register to vote after such period as if the person was qualified on the basis of age,
but until the person is qualified by age to vote, the person may vote only in primary elections.

SECTION 1.(d) Conduct of Election. – The 2016 presidential preference primary
election shall be conducted and canvassed by the same authority and in the manner provided by
law for the conduct and canvassing of the primary election for the office of Governor and all
other offices enumerated in G.S. 163-182.4(b) and under the same provisions stipulated in
G.S. 163-182.5(c). The State Board of Elections shall have authority to adopt rules and
regulations, not inconsistent with provisions contained herein, pursuant to the administration of
this act.

SECTION 1.(e) Nomination of Presidential Candidates by State Board of
Elections. – No later than December 16, 2015, the chair of each political party shall submit to
the State Board of Elections a list of its presidential candidates to be placed on the 2016
presidential preference primary ballot. The list must be comprised of candidates whose
candidacy is generally advocated and recognized in the news media throughout the United



1 States or in North Carolina, unless any such candidate executes and files with the chair of the
2 political party an affidavit stating without qualification that the candidate is not and does not
3 intend to become a candidate for nomination in the 2016 North Carolina presidential preference
4 primary election. The State Board of Elections shall prepare and publish a list of the names of
5 the presidential candidates submitted. The State Board of Elections shall convene in Raleigh on
6 January 5, 2016. At the meeting required by this section, the State Board of Elections shall
7 nominate as presidential primary candidates all candidates affiliated with a political party,
8 recognized pursuant to the provisions of Article 9 of Chapter 163 of the General Statutes, who
9 have been submitted to the State Board of Elections. Additionally, the State Board of Elections,
10 by vote of at least three of its members in the affirmative, may nominate as a presidential
11 primary candidate any other person affiliated with a political party that it finds is generally
12 advocated and recognized in the news media throughout the United States or in North Carolina
13 as candidates for the nomination by that party. Immediately upon completion of these
14 requirements, the Board shall release to the news media all such nominees selected. Provided,
15 however, nothing shall prohibit the partial selection of nominees prior to the meeting required
16 by this section, if all provisions herein have been complied with.

17 **SECTION 1.(f)** Nomination of Presidential Candidates by Petition. – Any person
18 seeking the endorsement by the national political party for the office of President of the United
19 States in 2016, or any group organized in this State on behalf of, and with the consent of, such
20 person, may file with the State Board of Elections petitions signed by 10,000 persons who, at
21 the time of the signing, are registered and qualified voters in this State and are affiliated, by
22 such registration, with the same political party as the candidate for whom the petitions are filed.
23 Such petitions shall be presented to the county board of elections 10 days before the filing
24 deadline and shall be certified promptly by the chair of the board of elections of the county in
25 which the signatures were obtained and shall be filed by the petitioners with the State Board of
26 Elections no later than 5:00 P.M. on January 4, 2016.

27 The petitions must state the name of the candidate for nomination, along with a
28 letter of approval signed by such candidate. Said petitions must also state the name and address
29 of the chair of any such group organized to circulate petitions authorized under this section.
30 The requirements of G.S. 163-221 prohibiting signing the name of another to a petition shall
31 apply to any submitted petition. The requirement of the respective chair of county boards of
32 elections shall be the same as now required under the provisions of G.S. 163-96 as those
33 requirements relate to the chair of the county board of elections.

34 The State Board of Elections shall forthwith determine the sufficiency of petitions
35 filed with it and shall immediately communicate its determination to the chair of such group
36 organized to circulate petitions. The form and style of petition shall be as prescribed by the
37 State Board of Elections.

38 **SECTION 1.(g)** Notification to Candidates. – The State Board of Elections shall
39 forthwith contact each person who has been nominated by the Board or by petition and notify
40 the candidate in writing that the candidate's name will be printed as a candidate of a specified
41 political party on the 2016 North Carolina presidential preference primary ballot. A candidate
42 who participates in the 2016 North Carolina presidential preference primary of a particular
43 party shall have the candidate's name placed on the general election ballot only as a nominee of
44 that political party. The State Board of Election shall send a copy of this act to each candidate
45 with the notice specified above.

46 **SECTION 1.(h)** Voting in Presidential Preference Primary. – The names of all
47 candidates in the 2016 presidential preference primary shall appear at an appropriate place on
48 the ballot or voting machine. In addition, the State Board of Elections shall provide a category
49 on the ballot or voting machine allowing voters in each political party to vote an
50 "uncommitted" or "no preference" status. The voter shall be able to cast the voter's ballot for
51 one of the presidential candidates of a political party or for an "uncommitted" or "no

1 preference" status but shall not be permitted to vote for candidates or "uncommitted" status of a
2 political party different from the voter's registration. Persons registered as "Unaffiliated" shall
3 not participate in the presidential primary except as provided in G.S. 163-119.

4 **SECTION 1.(i)** Allocation of Delegate Positions. – Upon completion and
5 certification of the primary results by the State Board of Elections, the Secretary of State shall
6 certify the results of the 2016 presidential preference primary to the State chair of each political
7 party. The candidate receiving the highest number of votes in the presidential preference
8 primary of each party shall be nominated. Each political party shall require the delegate
9 positions appointed by that party to support the candidate certified as receiving the highest
10 number of votes until one convention nominating ballot has been taken at the 2016 national
11 party convention, unless that candidate has withdrawn from the race and has ceased to actively
12 seek election to the office of President of the United States in more than one State at the time
13 the first convention nominating ballot is taken at the 2016 national party convention.

14 **SECTION 1.(j)** Conflict With National Rules. – In case of conflict between the
15 requirements of Section 1(i) of this act and the national rules of a political party, the State
16 executive committee of that party has the authority to resolve the conflict by adopting for that
17 party the national rules, which shall then supersede any provision in Section 1(i) of this act with
18 which it conflicts, provided that the executive committee shall take only such action under this
19 section necessary to resolve the conflict.

20 **SECTION 1.(k)** Notification of National Committee. – It shall be the responsibility
21 of the State chair of each political party, qualified under the laws of this State, to notify his or
22 her party's national committee no later than December 10, 2015, of the provisions contained
23 under this act.

24 **SECTION 2.(a)** General Primary Date. – Notwithstanding G.S. 163-1(b), the
25 primary election in 2016 shall be conducted on the same date as the 2016 presidential
26 preference primary, as established by Section 1(b) of this act.

27 **SECTION 2.(b)** Filing Period. – Notwithstanding G.S. 163-106, the filing period
28 for the 2016 primary shall open at 12:00 noon on Tuesday, December 1, 2015, and close at
29 12:00 noon on Monday, December 21, 2015.

30 **SECTION 2.(c)** Eligibility to File. – Notwithstanding G.S. 163-106, no person
31 shall be permitted to file as a candidate in a party primary unless that person has been affiliated
32 with that party for at least 75 days as of the date of that person filing such notice of candidacy.
33 A person registered as "unaffiliated" shall be ineligible to file as a candidate in a party primary
34 election.

35 **SECTION 2.(d)** Second Primaries. – Notwithstanding G.S. 163-111(e), if a second
36 primary is required under G.S. 163-111, the appropriate board of elections, State or county,
37 shall order that it be held May 24, 2016, if any of the offices for which a second primary is
38 required are for a candidate for the office of United States Senate or member of the United
39 States House of Representatives. Otherwise, the second primary shall be held May 3, 2016.

40 There shall be no registration of voters between the dates of the first and second primaries.
41 Persons whose qualifications to register and vote mature after the day of the first primary and
42 before the day of the second primary may register on the day of the second primary and, when
43 thus registered, shall be entitled to vote in the second primary. The second primary is a
44 continuation of the first primary and any voter who files a proper and timely written affirmation
45 of change of address within the county under the provisions of G.S. 163-82.15, in the first
46 primary may vote in the second primary without having to refile that written affirmation if the
47 voter is otherwise qualified to vote in the second primary. Subject to this provision for
48 registration, the second primary shall be held under the laws, rules, and regulations provided
49 for the first primary.

50 **SECTION 2.(e)** Special Elections. – Any special election authorized by statute or
51 local act that is set for May 2016 shall be placed on the ballot at the time of the presidential

1 preference primary, as established by Section 1(b) of this act, unless the unit of government
2 calling the special election affirmatively changes the date for the special election to another
3 date in accordance with G.S. 163-287.

4 **SECTION 2.(f)** Statement of Economic Interest. – Notwithstanding G.S. 138A-22,
5 the statement of economic interest required of any candidate for elective office subject to
6 Article 2 of Chapter 138A of the General Statutes shall be filed with the State Ethics
7 Commission on or before February 1, 2016.

8 **SECTION 2.(g)** Campaign Finance Reports. – Notwithstanding Article 22A of
9 Chapter 163 of the General Statutes, the following changes shall be made to the required
10 campaign finance reports:

11 (1) The report for the first quarter shall be due Monday, March 7, 2016, and
12 shall cover the period through February 29, 2016.

13 (2) The report for the second quarter shall also cover March 2016.

14 **SECTION 2.(h)** Temporary Orders. – In order to accommodate the scheduling of
15 the 2016 primary before the Tuesday after the first Monday in May, the State Board of
16 Elections may issue temporary orders that may change, modify, delete, amend, or add to any
17 statute contained in Chapter 163 of the General Statutes, any rules contained in Title 8 of the
18 North Carolina Administrative Code, or any other election regulation or guideline that may
19 affect the 2016 primaries elections. These temporary orders shall only be effective for the 2016
20 primary election.

21 **SECTION 2.(i)** Orders, Not Rules. – Orders issued under this section are not rules
22 subject to the provisions of Chapter 150B of the General Statutes. Orders issued under this
23 section shall be published in the North Carolina Register upon issuance.

24 **SECTION 2.(j)** Expiration of Orders. – Any orders issued under this section
25 become void 10 days after the final certification of all 2016 primary elections. This section
26 expires 10 days after the final certification of all 2016 primary elections.

27 **SECTION 2.(k)** Definition. – As used in this section, "order" also includes
28 guidelines and directives.

29 **SECTION 3.(a)** Article 22A of Chapter 163 of the General Statutes amended by
30 adding a new section to read:

31 **"§ 163.278.8B. Affiliated party committees.**

32 (a) The leader of each political party caucus of the North Carolina House of
33 Representatives and the Senate may establish a separate, affiliated party committee to support
34 the election of candidates of that leader's political party. The affiliated party committee is
35 deemed a political party for purposes of this Article.

36 (b) Each affiliated party committee shall:

37 (1) Adopt bylaws to include, at a minimum, the designation of a treasurer.

38 (2) Conduct campaigns for candidates who are members of the leader's political
39 party or manage daily operations of the affiliated party committee.

40 (3) Establish a bank account.

41 (4) Raise and expend funds. Such funds may not be expended or committed to
42 be expended except when authorized by the leader of the affiliated party
43 committee.

44 (c) Notwithstanding any other provision of law to the contrary, an affiliated party
45 committee shall be entitled to use the name, abbreviation, and symbol of the political party of
46 its leader.

47 (d) For purposes of this section, the term "leader" shall mean the currently elected
48 President Pro Tempore of the Senate, the currently elected Speaker of the House of
49 Representatives, or the currently elected minority leader of either house of the General
50 Assembly, until another person is designated by a political party caucus of members of either

house to succeed to one of the aforesaid positions, at which time the newly designated designee becomes the leader for purposes of this section.

SECTION 3.(b) G.S. 163-278.6 reads as rewritten:

"§ 163-278.6. Definitions.

When used in this Article:

...

(6) The terms "contribute" or "contribution" mean any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge or subscription of money or anything of value whatsoever, made to, or in coordination with, a candidate to support or oppose the nomination or election of one or more clearly identified candidates, to a political committee, to a political party, to an affiliated party committee, or to a referendum committee, whether or not made in an election year, and any contract, agreement, or other obligation to make a contribution. An expenditure forgiven by a person or entity to whom it is owed shall be reported as a contribution from that person or entity. These terms include, without limitation, such contributions as labor or personal services, postage, publication of campaign literature or materials, in-kind transfers, loans or use of any supplies, office machinery, vehicles, aircraft, office space, or similar or related services, goods, or personal or real property. These terms also include, without limitation, the proceeds of sale of services, campaign literature and materials, wearing apparel, tickets or admission prices to campaign events such as rallies or dinners, and the proceeds of sale of any campaign-related services or goods. Notwithstanding the foregoing meanings of "contribution," the word shall not be construed to include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, political committee, or referendum committee. The term "contribution" does not include an "independent expenditure." If:

- a. Any individual, person, committee, association, or any other organization or group of individuals, including but not limited to, a political organization (as defined in section 527(e)(1) of the Internal Revenue Code of 1986) makes, or contracts to make, any disbursement for any electioneering communication, as defined in this section; and
- b. That disbursement is coordinated with a candidate, an authorized political committee of that candidate, a State or local political party or committee of that party, an affiliated party committee, or an agent or official of any such candidate, party, or committee that disbursement or contracting shall be treated as a contribution to the candidate supported by the electioneering communication or that candidate's party and as an expenditure by that candidate or that candidate's party.

...

(8k) The term "electioneering communication" does not include any of the following:

- a. A communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless those facilities are owned or controlled by any political party, affiliated party committee, political committee, or candidate.
- b. A communication that constitutes an expenditure or independent expenditure under this Article.

- 1 c. A communication that constitutes a candidate debate or forum
2 conducted pursuant to rules adopted by the Board or that solely
3 promotes that debate or forum and is made by or on behalf of the
4 person sponsoring the debate or forum.
- 5 d. A communication made while the General Assembly is in session
6 which, incidental to advocacy for or against a specific piece of
7 legislation pending before the General Assembly, urges the audience
8 to communicate with a member or members of the General Assembly
9 concerning that piece of legislation or a solicitation of others as
10 defined in G.S. 120C-100(a)(13) properly reported under Chapter
11 120C of the General Statutes.
- 12 e. A communication that meets all of the following criteria:
- 13 1. Does not mention any election, candidacy, political party,
14 opposing candidate, or voting by the general public.
- 15 2. Does not take a position on the candidate's character or
16 qualifications and fitness for office.
- 17 3. Proposes a commercial transaction.
- 18 f. A public opinion poll conducted by a news medium, as defined in
19 G.S. 8-53.11(a)(3), conducted by an organization whose primary
20 purpose is to conduct or publish public opinion polls, or contracted
21 for by a person to be conducted by an organization whose primary
22 purpose is to conduct or publish public opinion polls. This
23 sub-subdivision shall not apply to a push poll. For the purpose of this
24 sub-subdivision, "push poll" shall mean the political campaign
25 technique in which an individual or organization attempts to
26 influence or alter the view of respondents under the guise of
27 conducting a public opinion poll.
- 28 g. A communication made by a news medium, as defined in
29 G.S. 8-53.11(a)(3), if the communication is in print.

30 ...

31 (14) The term "political committee" means a combination of two or more
32 individuals, such as any person, committee, association, organization, or
33 other entity that makes, or accepts anything of value to make, contributions
34 or expenditures and has one or more of the following characteristics:

- 35 a. Is controlled by a candidate;
- 36 b. Is a political party or executive committee of a political party or is
37 controlled by a political party or executive committee of a political
38 party;
- 39 c. Is created by a corporation, business entity, insurance company, labor
40 union, or professional association pursuant to G.S. 163-278.19(b); or
- 41 d. Has the major purpose to support or oppose the nomination or
42 election of one or more clearly identified candidates.
- 43 e. Is an affiliated party committee.

44 Supporting or opposing the election of clearly identified candidates includes
45 supporting or opposing the candidates of a clearly identified political party.

46 If the entity qualifies as a "political committee" under sub-subdivision a.,
47 b., c., or d. of this subdivision, it continues to be a political committee if it
48 receives contributions or makes expenditures or maintains assets or
49 liabilities. A political committee ceases to exist when it winds up its
50 operations, disposes of its assets, and files its final report.

The term "political committee" includes the campaign of a candidate who serves as his or her own treasurer.

Special definitions of "political action committee" and "candidate campaign committee" that apply only in Part 1A of this Article are set forth in G.S. 163-278.38Z.

- (15) The term "political party" means any political party organized or operating in this State, whether or not that party is recognized under the provisions of G.S. 163-96. A special definition of "political party organization" that applies only in Part 1A of this Article is set forth in G.S. 163-278.38Z. An affiliated party committee is deemed a political party for this Article as set forth in G.S. 163-278.8B.

..."

SECTION 3.(c) G.S. 163-278.7(b) reads as rewritten:

"(b) Each appointed treasurer shall file with the Board at the time required by G.S. 163-278.9(a)(1) a statement of organization that includes:

- (1) The Name, Address and Purpose of the Candidate, Political Committee, or Referendum Committee. – When the political committee or referendum committee is created pursuant to G.S. 163-278.19(b), the name shall be or include the name of the corporation, insurance company, business entity, labor union or professional association whose officials, employees, or members established the committee. When the political committee or referendum committee is not created pursuant to G.S. 163-278.19(b), the name shall be or include the economic interest, if identifiable, principally represented by the committee's organizers or intended to be advanced by use of the committee's receipts.
- (2) The names, addresses, and relationships of affiliated or connected candidates, political committees, referendum committees, political parties, affiliated party committees, or similar organizations;
- (3) The territorial area, scope, or jurisdiction of the candidate, political committee, or referendum committee;
- (4) The name, address, and position with the candidate or political committee of the custodian of books and accounts;
- (5) The name and party affiliation of the candidate(s) whom the committee is supporting or opposing, and the office(s) involved;
- (5a) The name of the referendum(s) which the referendum committee is supporting or opposing, and whether the committee is supporting or opposing the referendum;
- (6) The name of the political ~~committee or committee~~, political party or affiliated party committee being supported or opposed if the committee is supporting the ticket of a particular ~~political candidate~~ or political party;
- (7) A listing of all banks, safety deposit boxes, or other depositories used, including the names and numbers of all accounts maintained and the numbers of all such safety deposit boxes used, provided that the Board shall keep any account number included in any report filed after March 1, 2003, and required by this Article confidential except as necessary to conduct an audit or investigation, except as required by a court of competent jurisdiction, or unless confidentiality is waived by the treasurer. Disclosure of an account number in violation of this subdivision shall not give rise to a civil cause of action. This limitation of liability does not apply to the disclosure of account numbers in violation of this subdivision as a result of

gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable.

(8) The name or names and address or addresses of any assistant treasurers appointed by the treasurer. Such assistant treasurers shall be authorized to act in the name of the candidate, political committee, or referendum committee and shall be fully responsible for any act or acts committed by the assistant treasurer. The treasurer shall be fully liable for any violation of this Article committed by any assistant treasurer; and

(9) Any other information which might be requested by the Board that deals with the campaign organization of the candidate or referendum committee."

SECTION 3.(d) G.S. 163-278.8A reads as rewritten:

"§ 163-278.8A. (For effective date and applicability, see Editor's note) Campaign sales by political party executive committees.

(a) Exempt Purchase Price Not Treated as "Contribution." – Notwithstanding the provisions of G.S. 163-278.6(6), the purchase price of goods or services sold by a political party executive committee or affiliated party committee as provided in subsection (b) of this section shall not be treated as a "contribution" for purposes of account-keeping under G.S. 163-278.8, for purposes of the reporting of contributions under G.S. 163-278.11, or for the purpose of the limit on contributions under G.S. 163-278.13. The treasurer is not required to obtain, maintain, or report the name or other identifying information of the purchaser of the goods or services, as long as the requirements of subsection (b) of this section are satisfied. However, the proceeds from the sales of those goods and services shall be treated as contributions for other purposes, and expenditures of those proceeds shall be reported as expenditures under this Article.

(b) Exempt Purchase Price. – A purchase price for goods or services sold by a political party executive committee or affiliated party committee qualifies for the exemption provided in subsection (a) of this section as long as the sale of the goods or services adheres to a plan that the treasurer has submitted to and that has been approved in writing by the Executive Director of the State Board of Elections. The Executive Director shall approve the treasurer's plan upon and only upon finding that all the following requirements are satisfied:

- (1) That the price to be charged for the goods or services is reasonably close to the market price for the goods or services.
- (2) That the total amount to be raised from sales under all plans by the committee does not exceed ten thousand dollars (\$10,000) per election cycle.
- (3) That no purchaser makes total purchases under the plan that exceed fifty dollars (\$50.00).
- (4) That the treasurer include in the report under G.S. 163-278.11, covering the relevant time period, all of the following:
 - a. A description of the plan.
 - b. The amount raised from sales under the plan.
 - c. The number of purchases made.
- (5) That the treasurer shall include in the appropriate report under G.S. 163-278.11 any in-kind contribution made to the political party ~~executive committee~~ in providing the goods or services sold under the plan and that no in-kind contribution accepted as part of the plan violates any provision of this Article.

The Executive Director may require a format for submission of a plan, but that format shall not place undue paperwork burdens upon the treasurer. As used in this subdivision, the term "election cycle" has the same meaning as in G.S. 163-278.6(7c)."

SECTION 3.(e) G.S. 163-278.9 reads as rewritten:

"§ 163-278.9. Statements filed with Board.

(a) Except as provided in G.S. 163-278.10A, the treasurer of each candidate and of each political committee shall file with the Board under certification of the treasurer as true and correct to the best of the knowledge of that officer the following reports:

(1) Organizational Report. – The appointment of the treasurer as required by G.S. 163-278.7(a), the statement of organization required by G.S. 163-278.7(b), and a report of all contributions and expenditures not previously reported shall be filed with the Board no later than the tenth day following the day the candidate files notice of candidacy or the tenth day following the organization of the political committee, whichever occurs first. Any candidate whose campaign is being conducted by a political committee which is handling all contributions and expenditures for his campaign shall file a statement with the Board stating such fact at the time required herein for the organizational report. Thereafter, the candidate's political committee shall be responsible for filing all reports required by law.

(2) Repealed by Session Laws 1999-31, s. 7(a), effective January 1, 2000.

(3) (4) Repealed by Session Laws 1997-515, s. 1.

(4a) 48-Hour Report. – A ~~political committee or committee~~, political party or affiliated party committee that receives a contribution or transfer of funds shall disclose within 48 hours of receipt a contribution or transfer of one thousand dollars (\$1,000) or more received before an election but after the period covered by the last report due before that election. The disclosure shall be by report to the State Board of Elections identifying the source and amount of the funds. The State Board of Elections shall specify the form and manner of making the report, including the reporting of in-kind contributions.

(5) Repealed by Session Laws 1985, c. 164, s. 1.

(5a) Quarterly Reports. – During even-numbered years during which there is an election for that candidate or in which the campaign committee is supporting or opposing a candidate, the treasurer shall file a report by mailing or otherwise delivering it to the Board no later than seven working days after the end of each calendar quarter covering the prior calendar quarter, except that:

a. The report for the first quarter shall also cover the period in April through the seventeenth day before the primary, the first quarter report shall be due seven days after that date, and the second quarter report shall not include that period if a first quarter report was required to be filed; and

b. The report for the third quarter shall also cover the period in October through the seventeenth day before the election, the third quarter report shall be due seven days after that date, and the fourth quarter report shall not include that period if a third quarter report was required to be filed.

(6) Semiannual Reports. – If contributions are received or expenditures made for which no reports are otherwise required by this Article, any and all such contributions and expenditures shall be reported by the last Friday in July, covering the period through the last day of June, and shall be reported by the last Friday in January, covering the period through the last day of December.

(b) Except as otherwise provided in this Article, each report shall be current within seven days prior to the date the report is due and shall list all contributions received and expenditures made which have not been previously reported.

(c) Repealed by Session Laws 1985, c. 164, s. 6.1.

(d) Candidates and committees for municipal offices are not subject to subsections (a), (b) and (c) of this section, unless they make contributions or expenditures concerning elections covered by this Part. Reports for those candidates and committees are covered by Part 2 of this Article.

(e) Notwithstanding subsections (a) through (c) of this section, any political party (including a State, district, county, or precinct committee thereof) which is required to file reports under those subsections and under the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 434), shall instead of filing the reports required by those subsections, file with the State Board of Elections:

(1) The organizational report required by subsection (a)(1) of this section, and

(2) A copy of each report required to be filed under 2 U.S.C. 434, such copy to be filed on the same day as the federal report is required to be filed.

(f) Any report filed under subsection (e) of this section may include matter required by the federal law but not required by this Article.

(g) Any report filed under subsection (e) of this section must contain all the information required by G.S. 163-278.11, notwithstanding that the federal law may set a higher reporting threshold.

(h) Any report filed under subsection (e) of this section may reflect the cumulative totals required by G.S. 163-278.11 in an attachment, if the federal law does not permit such information in the body of the report.

(i) Any report or attachment filed under subsection (e) of this section must be certified.

"(j) **(Effective until January 1, 2017)** Treasurers for the following entities shall electronically file each report required by this section that shows a cumulative total for the election cycle in excess of five thousand dollars (\$5,000) in contributions, in expenditures, or in loans, according to rules adopted by the State Board of Elections:

(1) A candidate for statewide office;

(2) A State, district, county, or precinct executive committee of a political party, or an affiliated party committee, if the committee makes contributions or independent expenditures in excess of five thousand dollars (\$5,000) that affect contests for statewide office;

(3) A political committee that makes contributions in excess of five thousand dollars (\$5,000) to candidates for statewide office or makes independent expenditures in excess of five thousand dollars (\$5,000) that affect contests for statewide office.

The State Board of Elections shall provide the software necessary to file an electronic report to a treasurer required to file an electronic report at no cost to the treasurer.

(j) **(Effective January 1, 2017)** Treasurers for each of the following entities shall electronically file each report required by this section that shows a cumulative total for the election cycle in excess of the stated amount in contributions, in expenditures, or in loans, according to rules adopted by the State Board of Elections:

(1) A candidate for statewide office, if more than five thousand dollars (\$5,000).

(2) A State, district, county, or precinct executive committee of a political party, or an affiliated party committee, if the committee makes contributions or independent expenditures in excess of five thousand dollars (\$5,000) that affect contests for statewide office.

(3) A political committee that makes contributions in excess of five thousand dollars (\$5,000) to candidates for statewide office or makes independent expenditures in excess of five thousand dollars (\$5,000) that affect contests for statewide office.

(4) All other political committees, if more than ten thousand dollars (\$10,000).

1 The State Board of Elections shall provide the software necessary to file an electronic report to
2 a treasurer required to file an electronic report at no cost to the treasurer.

3 (k) All reports under this section must be filed by a treasurer or assistant treasurer who
4 has completed all training as to the duties of the office required by G.S. 163-278.7(f)."

5 **SECTION 3.(f)** G.S. 163-278.10A(b) reads as rewritten:

6 "(b) The exemption from reporting in subsection (a) of this section applies to political
7 party committees and affiliated party committees under the same terms as for candidates,
8 except that the term "to further the candidate's campaign" does not relate to a political party
9 committee's or an affiliated party committee's exemption, and all contributions, expenditures,
10 and loans during an election shall be counted against the threshold amount for a political party
11 committee's threshold amount, committee or an affiliated committee."

12 **SECTION 3.(g)** G.S. 163-278.11(b) reads as rewritten:

13 "(b) Statements shall reflect anything of value paid for or contributed by any person or
14 individual, both as a contribution and expenditure. A political party executive committee or
15 affiliated party committee that makes an expenditure that benefits a candidate or group of
16 candidates shall report the expenditure, including the date, amount, and purpose of the
17 expenditure and the name of and office sought by the candidate or candidates on whose behalf
18 the expenditure was made. A candidate who benefits from the expenditure shall report the
19 expenditure or the proportionate share of the expenditure from which the candidate benefitted
20 as an in-kind contribution if the candidate or the candidate's committee has coordinated with
21 the political party executive committee or affiliated party committee concerning the
22 expenditure."

23 **SECTION 3.(h)** G.S. 163-278.13 reads as rewritten:

24 "(e) This section shall not apply to any national, State, district or county executive
25 committee of any political ~~party-party~~ party or an affiliated party committee. For the purposes of this
26 section only, the term "political party" means only those political parties officially recognized
27 under G.S. 163-96."

28 **SECTION 3.(i)** G.S. 163-278.13B(c)(5) reads as rewritten:

29 "(5) No limited contributor shall solicit a contribution from any individual or
30 political committee on behalf of a limited contributee. This subdivision does
31 not apply to a limited contributor soliciting a contribution on behalf of a
32 political party executive committee or an affiliated party committee if the
33 solicitation is solely for a separate segregated fund kept by the political party
34 or affiliated party committee limited to use for activities that are not
35 candidate-specific, including generic voter registration and get-out-the-vote
36 efforts, pollings, mailings, and other general activities and advertising that
37 do not refer to a specific individual candidate."

38 **SECTION 3.(j)** G.S. 163-278.14(a) reads as rewritten:

39 "(a) No individual, political committee, or other entity shall make any contribution
40 anonymously or in the name of another. No candidate, political committee, referendum
41 committee, political party, affiliated party committee, or treasurer shall knowingly accept any
42 contribution made by any individual or person in the name of another individual or person or
43 made anonymously. If a candidate, political committee, referendum committee, political party,
44 affiliated party committee, or treasurer receives anonymous contributions or contributions
45 determined to have been made in the name of another, he shall pay the money over to the
46 Board, by check, and all such moneys received by the Board shall be deposited in the Civil
47 Penalty and Forfeiture Fund of the State of North Carolina. This subsection shall not apply to
48 any contribution by an individual with the lawful authority to act on behalf of another
49 individual, whether through power of attorney, trustee, or other lawful authority."

50 **SECTION 3.(k)** G.S. 163-278.14A(b)(1) reads as rewritten:

"(1) Appears in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, or magazine, unless those facilities are owned or controlled by any political party, affiliated party committee, or political committee;"

SECTION 3.(l) G.S. 163-278.15(a) reads as rewritten:

"(a) No candidate, political committee, political party, affiliated party committee, or treasurer shall accept any contribution made by any corporation, foreign or domestic, regardless of whether such corporation does business in the State of North Carolina, or made by any business entity, labor union, professional association, or insurance company. This section does not apply with regard to entities permitted to make contributions by G.S. 163-278.19(f)."

SECTION 3.(m) G.S. 163-278.16B(a)(4) reads as rewritten:

"(4) Contributions to a national, State, or district or county committee of a political party or a caucus of the political ~~party~~ party or an affiliated party committee."

SECTION 3.(n) G.S. 163-278.18(a) reads as rewritten:

"(a) No media and no supplier of materials or services shall charge or require a candidate, treasurer, political party, affiliated party committee, or individual to pay a charge for advertising, materials, space, or services purchased for or in support of or in opposition to any candidate, political committee, or political party that is higher than the normal charge it requires other customers to pay for comparable advertising, materials, space, or services purchased for other purposes."

SECTION 3.(o) G.S. 163-278.19(a1) reads as rewritten:

"(a1) A transfer of funds shall be deemed to have been a contribution made indirectly if it is made to any ~~committee~~ committee, affiliated party committee, or political party account, whether inside or outside this State, with the intent or purpose of being exchanged in whole or in part for any other funds to be contributed or expended in an election for North Carolina office or to offset any other funds contributed or expended in an election for North Carolina office."

SECTION 3.(p) G.S. 163-278.19B reads as rewritten:

"§ 163-278.19B. Political party headquarters building funds.

Notwithstanding the provisions of G.S. 163-278.19, a person prohibited by that section from making a contribution may donate to political parties and affiliated party committees and political parties and affiliated party committees may accept from such a person money and other things of value donated to a political party headquarters building fund. Donations to the political party headquarters building fund shall be subject to all the following rules:

- (1) The donations solicited and accepted are designated to the political party headquarters building fund.
- (2) Potential donors to that fund are advised that all donations will be exclusively for the political party headquarters building fund.
- (3) The political party or affiliated party committee establishes a separate segregated bank account into which shall be deposited only donations for the political party headquarters building fund from persons prohibited by G.S. 163-278.19 from making contributions.
- (4) The donations deposited in the separate segregated bank account for the political party headquarters building fund will be spent only to purchase a principal headquarters building, to construct a principal headquarters building, to renovate a principal headquarters building, to pay a mortgage on a principal headquarters building, to repay donors if a principal headquarters building is not purchased, constructed, or renovated, or to pay building rent or monthly or bimonthly utility expenses incurred to operate the principal headquarters building. Donations deposited into that account shall be used

solely for the purposes set forth in the preceding sentence, and specifically shall not be used for headquarters equipment other than fixtures, personnel compensation, or travel or fundraising expenses or requirements of any kind. Notwithstanding the above, personnel compensation and in-kind benefits may be paid to no more than three personnel whose functions are primarily administrative in nature, such as providing accounting, payroll, or campaign finance reporting services, for the party and whose job functions require no more than ten percent (10%) of work time to be spent on political advocacy each calendar year

- (5) The political party executive committee or affiliated party committee shall report donations to and spending by a political party headquarters building fund on every report required to be made by G.S. 163-278.9. If a committee is excused from making general campaign finance reports under G.S. 163-278.10A, that committee shall nonetheless report donations in any amount to and spending in any amount by the political party headquarters building fund at the times required for reports in G.S. 163-278.9.

If all the criteria set forth in subdivisions (1) through (5) of this section are complied with, then donations to and spending by a political party headquarters building fund do not constitute contributions or expenditures as defined in G.S. 163-278.6. If those criteria are complied with, then donations may be made to a political party headquarters building fund."

SECTION 3.(q) G.S. 163-278.38Z reads as rewritten:

"§ 163-278.38Z. Definitions.

As used in this Part:

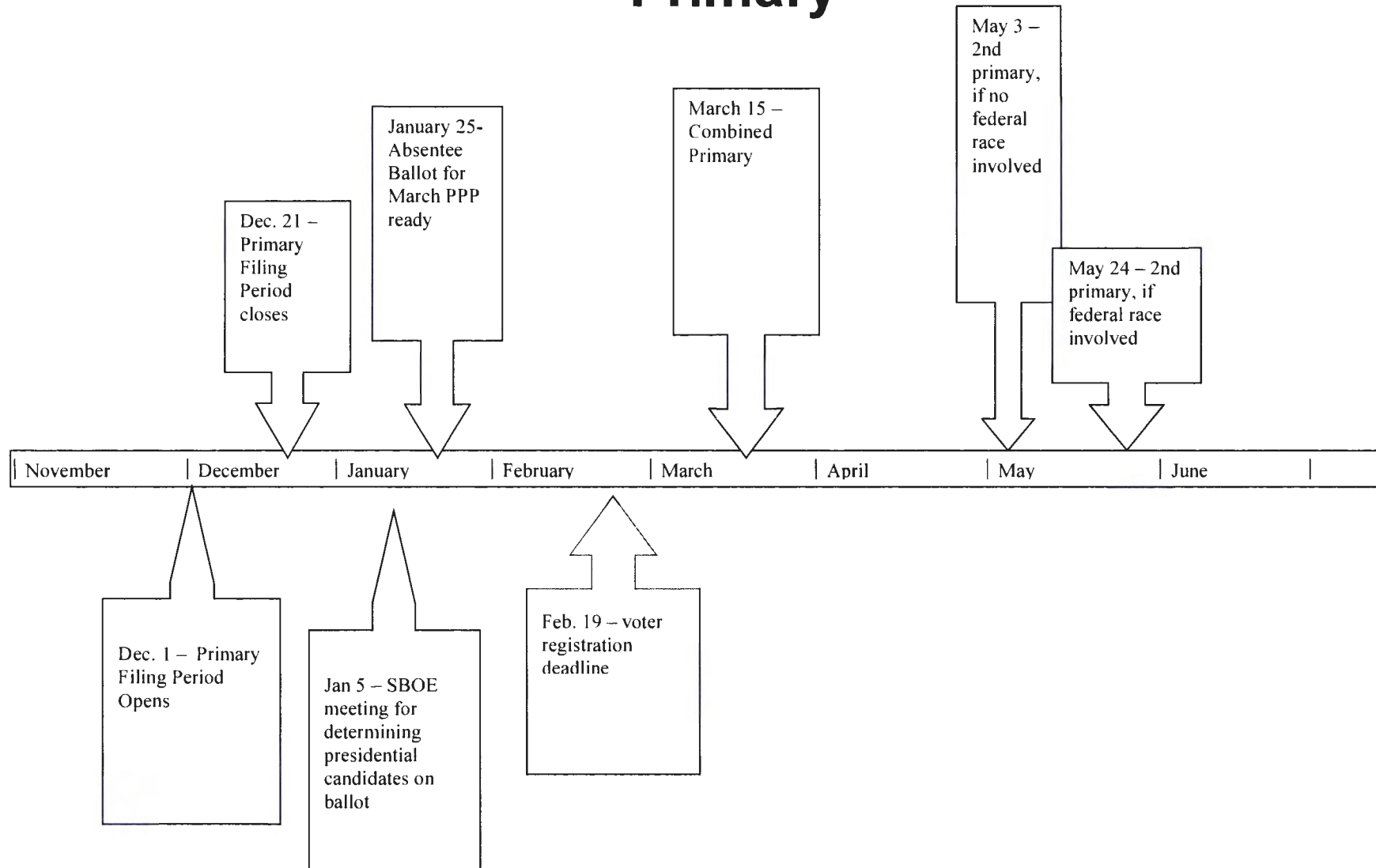
...

- (5) "Political action committee" has the same meaning as "political committee" in G.S. 163-278.6(14), except that "political action committee" does not include any political ~~party or party~~, political party ~~organization~~, organization, or affiliated party committee.
- (6) "Political party organization" means any political party executive committee or any political committee that operates under the direction of a political party executive committee or political party ~~chair~~, chair, or any affiliated party committee.

..."

SECTION 4. Sections 1 and 2 of this act are effective when the act becomes law and apply only to the 2016 primary cycle. The remainder of this act is effective when it becomes law and applies to contributions and expenditures made on or after that date.

2016 Primaries – Combined March 15 Primary





**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

H

2

**HOUSE BILL 272
Committee Substitute Favorable 9/22/15**

Short Title: Speaker's Appointments Bill 2015.

(Public)

Sponsors:

Referred to:

March 19, 2015

A BILL TO BE ENTITLED
AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE
RECOMMENDATION OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

Whereas, G.S. 120-121 authorizes the General Assembly to make certain appointments to public offices upon the recommendation of the Speaker of the House of Representatives; and

Whereas, the Speaker of the House of Representatives has made recommendations;

Now, therefore,

The General Assembly of North Carolina enacts:

PART I. SPEAKER'S APPOINTMENTS

SECTION 1.1. Effective October 1, 2015, Lavonda Daniels of Durham County is appointed to the African-American Heritage Commission for a term expiring on September 30, 2018.

SECTION 1.2. Harold T. Owen of Alamance County is appointed to the North Carolina Arboretum Board of Directors for a term expiring on June 30, 2016, to fill the unexpired term of Lucas S. Jack.

SECTION 1.3. Thomas C. Hege of Davidson County is appointed to the Agricultural Finance Authority for a term expiring on June 30, 2018.

SECTION 1.4. John Thompson of Robeson County and John Walsh of Iredell County are appointed to the Alarm Systems Licensing Board for terms expiring on June 30, 2018.

SECTION 1.5. Effective October 1, 2015, Dr. Karen McCulloch of Orange County and Dr. Erwin Manalo of Pitt County are appointed to the North Carolina Brain Injury Advisory Council for terms expiring on September 30, 2019.

SECTION 1.6. Kent Jackson of Wake County is appointed to the State Building Commission for a term expiring on June 30, 2018.

SECTION 1.7. Heather L. Boshier of Cumberland County is appointed to the North Carolina Cemetery Commission for a term expiring on June 30, 2017, to fill the unexpired term of Richard Lagatore.

SECTION 1.8. Kieran Shanahan of Wake County and R. Doyle Parrish of Wake County are appointed to the Centennial Authority for terms expiring on June 30, 2019.

SECTION 1.9. Anthony Helton of Rutherford County is appointed to the North Carolina Charter Schools Advisory Board for a term expiring on June 30, 2019.

SECTION 1.10.(a) Vickie H. Koch of Wake County is appointed to the Childcare Commission for a term expiring June 30, 2016, to fill the unexpired term of Susan Creech.



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1 **SECTION 1.10.(b)** Glenda Weinert of Buncombe County and Lisa Humphreys of
2 Wake County are appointed to the Childcare Commission for terms expiring on June 30, 2017.

3 **SECTION 1.11.** Dr. Richard K. Davis, Jr., of Catawba County is appointed to the
4 State Board of Chiropractic Examiners for a term expiring on June 30, 2017.

5 **SECTION 1.12.** Effective August 1, 2015, J. Frank Bragg of Mecklenburg County
6 is appointed to the Clean Water Management Trust Fund Board of Trustees for a term expiring
7 on July 31, 2017.

8 **SECTION 1.13.** Lawrence F. Baldwin of Carteret County is appointed to the
9 Coastal Resources Commission for a term expiring on June 30, 2018.

10 **SECTION 1.14.** Mark A. Smith of Guilford County and Nathan A. Matthews of
11 Catawba County are appointed to the North Carolina Code Officials Qualifications Board for
12 terms expiring on June 30, 2019.

13 **SECTION 1.15.** Baldwin R. Mitchell, Jr., of Wilson County is appointed to the
14 North Carolina State Board of Cosmetic Art Examiners for a term expiring on June 20, 2018.

15 **SECTION 1.16.** Tammy Huffman West of Catawba County is appointed to the
16 Crime Victims Compensation Commission for a term expiring on June 30, 2019.

17 **SECTION 1.17.** R. Steven Johnson of Wake County, Richard W. Parks of Nash
18 County, Angela L. Williams of Guilford County, and David L. Dail of Caswell County are
19 appointed to the North Carolina Criminal Justice Education and Training Standards
20 Commission for terms expiring on June 30, 2017.

21 **SECTION 1.18.** Ronnie D. Edwards of Henderson County and Norlan Graves of
22 Halifax County are appointed to the Criminal Justice Information Network Governing Board
23 for terms expiring on June 30, 2019.

24 **SECTION 1.19.** Helene Edwards of Cumberland County is appointed to the North
25 Carolina Board of Dietetics/Nutrition for a term expiring on June 30, 2018.

26 **SECTION 1.20.** Tyler B. Morris of Wake County and Bradley Lail of Catawba
27 County are appointed to the Disciplinary Hearing Commission of the North Carolina State Bar
28 for terms expiring on June 30, 2018.

29 **SECTION 1.21.** Effective October 1, 2015, Lorrie Dollar of Wake County is
30 appointed to the Dispute Resolution Commission for a term expiring on September 30, 2018.

31 **SECTION 1.22.** Effective September 1, 2015, Mary Lopez Carter of Orange
32 County, Erica S. Gallion of Harnett County, and the Honorable Robert M. Wilkins of Randolph
33 County are appointed to the Domestic Violence Commission for terms expiring on August 31,
34 2017.

35 **SECTION 1.23.** Effective January 1, 2016, Kevin T. Stanley of Mecklenburg
36 County is appointed to the North Carolina Emergency Medical Services Advisory Council for a
37 term expiring on December 31, 2019.

38 **SECTION 1.24.** Clyde E. "Butch" Smith of Polk County is appointed to the
39 Environmental Management Commission for a term expiring on June 30, 2019.

40 **SECTION 1.25.** Robert "Scott" Clontz of Iredell County is appointed to the Board
41 of Directors of the North Carolina Global TransPark Authority for a term expiring on June 30,
42 2019.

43 **SECTION 1.26.** Joseph B. Ramsey, Jr., of Wake County is appointed to the Home
44 Inspector Licensure Board for a term expiring on July 1, 2019.

45 **SECTION 1.27.** Tom Smith of Wake County, James E. Nance of Stanly County,
46 Paul S. Jaber of Nash County, and James W. Oglesby of Buncombe County are appointed to
47 the North Carolina Housing Finance Agency Board of Directors for terms expiring on June 30,
48 2017.

49 **SECTION 1.28.** Effective September 1, 2015, Daniel W. Kornelis of Forsyth
50 County, Roger L. Earnhardt of Wake County, Scott Dedman of Buncombe County, Brian

1 Coyle of Forsyth County, and Melody Smith of Wake County are appointed to the North
2 Carolina Housing Partnership for terms expiring on August 31, 2018.

3 **SECTION 1.29.** Lisa P. Shock of Orange County is appointed to the Board of
4 Directors of the North Carolina Institute of Medicine for a term expiring on January 1, 2018, to
5 fill the unexpired term of Ronald Maddox.

6 **SECTION 1.30.** Effective October 1, 2015, Jeffrey M. Edwards of Granville
7 County is appointed to the North Carolina Irrigation Contractors' Licensing Board for a term
8 expiring on September 30, 2018.

9 **SECTION 1.31.** Matthew A. Grindstaff of Mitchell County, Ashley M. Honeycutt
10 of Wake County, Wanda Moore of New Hanover County, Karen A. McCall of Durham
11 County, Ryan S. Swanson of Wake County, Representative Becky Carney of Mecklenburg
12 County, Representative Dan Bishop of Mecklenburg County, and Representative Larry
13 Yarborough of Granville County are appointed to the Justus-Warren Heart Disease and Stroke
14 Prevention Task Force for terms expiring on June 30, 2017.

15 **SECTION 1.32.** Effective January 1, 2016, Rafe Rountree of Martin County is
16 appointed to the North Carolina Locksmith Licensing Board for a term expiring on December
17 31, 2018.

18 **SECTION 1.33.** Dean J. Jordan of Wake County is appointed to the Judicial
19 Standards Commission for a term expiring December 31, 2020, to fill the unexpired term of
20 James Testa.

21 **SECTION 1.34.** Ashley "Luke" Foster of Wake County, Nina S. Walker of Moore
22 County, and Douglas S. Ramsey of Alexander County are appointed to the North Carolina
23 Manufactured Housing Board for a term expiring on June 30, 2018.

24 **SECTION 1.35.** James J. Fitzsimmons of Mecklenburg County and Renee D. Hays
25 of Wake County are appointed to the North Carolina Board of Massage and Bodywork Therapy
26 for terms expiring on June 30, 2018.

27 **SECTION 1.36.(a)** Charles "Wayne" Dixon of Yadkin County is appointed to the
28 Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services for
29 a term expiring on June 30, 2017, to fill the unexpired term of Justin Brackett.

30 **SECTION 1.36.(b)** Dr. Peggy S. Terhune of Randolph County, Ann Shaw of
31 Randolph County, and Roger L. Dillard, Jr., of Forsyth County are appointed to the
32 Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services for
33 terms expiring on June 30, 2018.

34 **SECTION 1.37.** R. Gene Davis of Wake County and Mary Jo Cresimore of Wake
35 County are appointed to the Board of Trustees of the North Carolina Museum of Art for a term
36 expiring on June 30, 2017.

37 **SECTION 1.38.** Gregory F. Hauser of Mecklenburg County is appointed to the
38 911 Board for a term expiring on December 31, 2018, to fill the unexpired term of Johnny T.
39 Cole.

40 **SECTION 1.39.** Effective January 1, 2016, Patricia T. Campbell of Iredell County
41 is appointed to the North Carolina Board of Nursing for a term expiring on December 31, 2019.

42 **SECTION 1.40.** Dianna Rahash of Onslow County is appointed to the North
43 Carolina Onsite Wastewater Contractors and Inspectors Certification Board for a term expiring
44 on June 30, 2018.

45 **SECTION 1.41.(a)** Effective October 1, 2015, William "Larry" Stone of Cleveland
46 County is appointed to the Outdoor Heritage Advisory Council for a term expiring on
47 September 30, 2016.

48 **SECTION 1.41.(b)** Effective October 1, 2015, Harry M. Shaw of New Hanover
49 County is appointed to the Outdoor Heritage Advisory Council for a term expiring on
50 September 30, 2017.

1 **SECTION 1.41.(c)** Effective October 1, 2015, Cameron V. Boltes of Beaufort
2 County is appointed to the Outdoor Heritage Advisory Council for a term expiring on
3 September 30, 2018.

4 **SECTION 1.42.** Dr. Vinod K. Goel of Wake County is appointed to the North
5 Carolina Parks and Recreation Authority for a term expiring on July 1, 2018.

6 **SECTION 1.43.** The Honorable Joy A. Jones of Johnston County is appointed to
7 the Permanency Innovation Initiative Oversight Committee for a term expiring on June 30,
8 2018.

9 **SECTION 1.44.** Thomas W. Adams of Brunswick County is appointed to the
10 North Carolina State Ports Authority for a term expiring on June 30, 2017.

11 **SECTION 1.45.** Jeremy Johnson of Pamlico County is appointed to the North
12 Carolina Principal Fellows Commission for a term expiring on June 30, 2019.

13 **SECTION 1.46.** Marcus Benson of New Hanover County, William J. Fletcher, Jr.,
14 of Wilkes County, David C. Arndt of Surry County, and Clyde R. Cook, Jr., of Wake County
15 are appointed to the Private Protective Services Board for terms expiring on June 30, 2018.

16 **SECTION 1.47.** Terry Wheeler of Dare County is appointed to the State Property
17 Tax Commission for a term expiring on June 30, 2019.

18 **SECTION 1.48.** John Michael Causey of Guilford County is appointed to the
19 Public Officers and Employees Liability Insurance Committee for a term expiring on June 30,
20 2019.

21 **SECTION 1.49.** The Honorable George Rountree III of New Hanover and Gervais
22 A. Oxendine of Robeson County are appointed to the North Carolina Railroad Company Board
23 of Directors for terms expiring on June 30, 2019.

24 **SECTION 1.50.** Tracy J. Warren of Beaufort County is appointed to the North
25 Carolina Recreational Therapy Licensure Board for a term expiring on June 30, 2016, to fill the
26 unexpired term of Dianne Layden.

27 **SECTION 1.51.** Effective September 1, 2015, Dr. Eric L. Olson of Durham
28 County and Larry Bruce Simpson of Alamance County are appointed to the North Carolina
29 Respiratory Care Board for terms expiring on August 31, 2018.

30 **SECTION 1.52.** Gayle S. Drummond of Dare County, William F. Small of Dare
31 County, and Earl W. Willis, Jr., of Chowan County are appointed to the Roanoke Island
32 Commission for terms expiring on June 30, 2017.

33 **SECTION 1.53.** Danny E. Britt, Jr., of Robeson County, Garth K. Dunklin of
34 Mecklenburg County, and Stephanie M. Simpson of Wake County are appointed to the Rules
35 Review Commission for terms expiring on June 30, 2017.

36 **SECTION 1.54.(a)** G.S. 143B-472.128(c) requires the terms of members of the
37 Rural Infrastructure Authority to be staggered. To stagger the terms of the members appointed
38 on November 21, 2013, to the Rural Infrastructure Authority pursuant to
39 G.S. 143B-472.128(b)(3), the terms of those members shall be amended as follows:

40 (1) Lee Grantham's term expired on June 30, 2014.

41 (2) Darrell McCormick's term expired on June 30, 2015.

42 (3) Brady Dickson's term expired on June 30, 2015.

43 (4) Elizabeth Foster's term shall expire on June 30, 2016.

44 (5) Lige Daughtridge's term shall expire on June 30, 2016.

45 **SECTION 1.54.(b)** Frank A. Stewart of Gaston County is appointed to the Rural
46 Infrastructure Authority for a term expiring on June 30, 2016, to fill the unexpired term of
47 Elizabeth Foster.

48 **SECTION 1.54.(c)** Lee Grantham of Robeson County is appointed to the Rural
49 Infrastructure Authority for a term expiring on June 30, 2017.

SECTION 1.54.(d) Effective July 1, 2015, the Honorable Darrell McCormick of Yadkin County and Brady Dickson of Montgomery County are appointed to the Rural Infrastructure Authority for terms expiring on June 30, 2018.

SECTION 1.55. Bradley W. Langston of Forsyth County is appointed to the North Carolina Marine Industrial Park Authority for a term expiring on June 30, 2017.

SECTION 1.56. Dr. Ellen C. Collett of Burke County and Paul Powell of Guilford County are appointed to the Board of Trustees of the North Carolina School of Science and Mathematics for terms expiring on June 30, 2017.

SECTION 1.57. Enoch Moeller of Caldwell County is appointed to the North Carolina Board of Science and Technology for a term expiring on June 30, 2017.

SECTION 1.58. Sheriff James "Alan" Norman of Cleveland County is appointed to the North Carolina Sheriffs' Education and Training Standards Commission for a term expiring on June 30, 2017.

SECTION 1.59. Dr. Warren Newton of Orange County is appointed to the Board of Trustees of the State Health Plan for Teachers and State Employees for a term expiring on June 30, 2017.

SECTION 1.60.(a) G.S. 159G-70(b) requires the terms of State Water Infrastructure Authority members to be staggered. To stagger the terms, the term of the Honorable Calvin H. Stiles of Cherokee County to the State Water Infrastructure Authority expires on July 1, 2016.

SECTION 1.60.(b) Maria S. Hunnicutt of Rutherford County is appointed to the State Water Infrastructure Authority for a term expiring on July 1, 2017.

SECTION 1.61. Michael "Greg" Patterson of Wake County is appointed to the Board of Trustees of the Teachers' and State Employees' Retirement System for a term expiring on June 30, 2017.

SECTION 1.62. Culley C. Carson IV of Wake County is appointed to the University of North Carolina Center for Public Television Board of Trustees for a term expiring on June 30, 2017.

SECTION 1.63. Roger W. Knight of Wake County is appointed to the Umstead Review Panel for a term expiring on June 30, 2017, to fill the unexpired term of Robert T. "Bob" Numbers II.

SECTION 1.64. Douglas C. McVey of Madison County is appointed to the Well Contractors Certification Commission for a term expiring on June 30, 2018.

SECTION 1.65. The Honorable Timothy L. Spear of Washington County, John A. Stone of Moore County, Dean D. Proctor of Catawba County, and Tommy Fonville of Wake County are appointed to the North Carolina Wildlife Resources Commission for terms expiring on June 30, 2017.

SECTION 1.66.(a) Raymond T. Covington of Guilford County is appointed to the North Carolina Oil and Gas Commission for a term expiring on June 30, 2016.

SECTION 1.66.(b) Dr. Karen Sullivan Glaser of Lee County is appointed to the North Carolina Oil and Gas Commission for a term expiring on June 30, 2017.

SECTION 1.66.(c) Charles Taylor of Lee County is appointed to the North Carolina Oil and Gas Commission for a term expiring on June 30, 2018.

SECTION 1.67.(a) Johnny Hutchins of Cleveland County is appointed to the North Carolina Mining Commission for a term expiring on June 30, 2019.

SECTION 1.67.(b) Samuel T. Bratton of Wake County is appointed to the North Carolina Mining Commission for a term expiring on June 30, 2020.

PART II. EFFECTIVE DATE

SECTION 2.1. Unless otherwise specified, all appointments made by this act are for terms to begin upon ratification of this act.

1

SECTION 2.2. This act is effective when it becomes law.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

H

D

**HOUSE BILL 272
Committee Substitute Favorable 9/22/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H272-CSLG-8 [v.1]**

9/22/2015 2:50:21 PM

Short Title: Appointments Bill 2015.

(Public)

Sponsors:

Referred to:

March 19, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE
3 RECOMMENDATION OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES,
4 THE PRESIDENT PRO TEMPORE OF THE SENATE, AND THE MINORITY LEADER
5 OF THE SENATE.

6 Whereas, G.S. 120-121 authorizes the General Assembly to make certain
7 appointments to public offices upon the recommendation of the Speaker of the House of
8 Representatives and the President Pro Tempore of the Senate; and

9 Whereas, the Speaker of the House of Representatives and the President Pro
10 Tempore of the Senate have made recommendations; and

11 Whereas, G.S. 143B-168.12 authorizes the General Assembly to appoint a member
12 of the public to the Board of Directors of the North Carolina Partnership for Children, Inc.,
13 upon recommendation of the Minority Leader of the Senate; and

14 Whereas, the Minority Leader of the Senate has made a recommendation; Now,
15 therefore,
16 The General Assembly of North Carolina enacts:

17
18 **PART I. SPEAKER'S APPOINTMENTS**

19 **SECTION 1.1.** Effective October 1, 2015, Lavonda Daniels of Durham County is
20 appointed to the African-American Heritage Commission for a term expiring on September 30,
21 2018.

22 **SECTION 1.2.** Harold T. Owen of Alamance County is appointed to the North
23 Carolina Arboretum Board of Directors for a term expiring on June 30, 2016, to fill the
24 unexpired term of Lucas S. Jack.

25 **SECTION 1.3.** Thomas C. Hege of Davidson County is appointed to the
26 Agricultural Finance Authority for a term expiring on June 30, 2018.

27 **SECTION 1.4.** John Thompson of Robeson County and John Walsh of Iredell
28 County are appointed to the Alarm Systems Licensing Board for terms expiring on June 30,
29 2018.

30 **SECTION 1.5.** Effective October 1, 2015, Dr. Karen McCulloch of Orange County
31 and Dr. Erwin Manalo of Pitt County are appointed to the North Carolina Brain Injury
32 Advisory Council for terms expiring on September 30, 2019.

33 **SECTION 1.6.** Kent Jackson of Wake County is appointed to the State Building
34 Commission for a term expiring on June 30, 2018.





1 **SECTION 1.7.** Heather L. Boshier of Cumberland County is appointed to the North
2 Carolina Cemetery Commission for a term expiring on June 30, 2017, to fill the unexpired term
3 of Richard Lagatore.

4 **SECTION 1.8.** Kieran Shanahan of Wake County and R. Doyle Parrish of Wake
5 County are appointed to the Centennial Authority for terms expiring on June 30, 2019.

6 **SECTION 1.9.** Anthony Helton of Rutherford County is appointed to the North
7 Carolina Charter Schools Advisory Board for a term expiring on June 30, 2019.

8 **SECTION 1.10.(a)** Vickie H. Koch of Wake County is appointed to the Childcare
9 Commission for a term expiring June 30, 2016, to fill the unexpired term of Susan Creech.

10 **SECTION 1.10.(b)** Glenda Weinert of Buncombe County and Lisa Humphreys of
11 Wake County are appointed to the Childcare Commission for terms expiring on June 30, 2017.

12 **SECTION 1.11.** Dr. Richard K. Davis, Jr., of Catawba County is appointed to the
13 State Board of Chiropractic Examiners for a term expiring on June 30, 2017.

14 **SECTION 1.12.** Effective August 1, 2015, J. Frank Bragg of Mecklenburg County
15 is appointed to the Clean Water Management Trust Fund Board of Trustees for a term expiring
16 on July 31, 2017.

17 **SECTION 1.13.** Lawrence F. Baldwin of Carteret County is appointed to the
18 Coastal Resources Commission for a term expiring on June 30, 2018.

19 **SECTION 1.14.** Mark A. Smith of Guilford County and Nathan A. Matthews of
20 Catawba County are appointed to the North Carolina Code Officials Qualifications Board for
21 terms expiring on June 30, 2019.

22 **SECTION 1.15.** Baldwin R. Mitchell, Jr., of Wilson County is appointed to the
23 North Carolina State Board of Cosmetic Art Examiners for a term expiring on June 20, 2018.

24 **SECTION 1.16.** Tammy Huffman West of Catawba County is appointed to the
25 Crime Victims Compensation Commission for a term expiring on June 30, 2019.

26 **SECTION 1.17.** R. Steven Johnson of Wake County, Richard W. Parks of Nash
27 County, Angela L. Williams of Guilford County, and David L. Dail of Caswell County are
28 appointed to the North Carolina Criminal Justice Education and Training Standards
29 Commission for terms expiring on June 30, 2017.

30 **SECTION 1.18.** Ronnie D. Edwards of Henderson County and Norlan Graves of
31 Halifax County are appointed to the Criminal Justice Information Network Governing Board
32 for terms expiring on June 30, 2019.

33 **SECTION 1.19.** Helene Edwards of Cumberland County is appointed to the North
34 Carolina Board of Dietetics/Nutrition for a term expiring on June 30, 2018.

35 **SECTION 1.20.** Tyler B. Morris of Wake County and Bradley Lail of Catawba
36 County are appointed to the Disciplinary Hearing Commission of the North Carolina State Bar
37 for terms expiring on June 30, 2018.

38 **SECTION 1.21.** Effective October 1, 2015, Lorrie Dollar of Wake County is
39 appointed to the Dispute Resolution Commission for a term expiring on September 30, 2018.

40 **SECTION 1.22.** Effective September 1, 2015, Mary Lopez Carter of Orange
41 County, Erica S. Gallion of Harnett County, and the Honorable Robert M. Wilkins of Randolph
42 County are appointed to the Domestic Violence Commission for terms expiring on August 31,
43 2017.

44 **SECTION 1.23.** Effective January 1, 2016, Kevin T. Stanley of Mecklenburg
45 County is appointed to the North Carolina Emergency Medical Services Advisory Council for a
46 term expiring on December 31, 2019.

47 **SECTION 1.24.** Clyde E. "Butch" Smith of Polk County is appointed to the
48 Environmental Management Commission for a term expiring on June 30, 2019.

49 **SECTION 1.25.** Robert "Scott" Clontz of Iredell County is appointed to the Board
50 of Directors of the North Carolina Global TransPark Authority for a term expiring on June 30,
51 2019.



1 **SECTION 1.26.** Joseph B. Ramsey, Jr., of Wake County is appointed to the Home
2 Inspector Licensure Board for a term expiring on July 1, 2019.

3 **SECTION 1.27.** Tom Smith of Wake County, James E. Nance of Stanly County,
4 Paul S. Jaber of Nash County, and James W. Oglesby of Buncombe County are appointed to
5 the North Carolina Housing Finance Agency Board of Directors for terms expiring on June 30,
6 2017.

7 **SECTION 1.28.** Effective September 1, 2015, Daniel W. Kornelis of Forsyth
8 County, Roger L. Earnhardt of Wake County, Scott Dedman of Buncombe County, Brian
9 Coyle of Forsyth County, and Melody Smith of Wake County are appointed to the North
10 Carolina Housing Partnership for terms expiring on August 31, 2018.

11 **SECTION 1.29.** Lisa P. Shock of Orange County is appointed to the Board of
12 Directors of the North Carolina Institute of Medicine for a term expiring on January 1, 2018, to
13 fill the unexpired term of Ronald Maddox.

14 **SECTION 1.30.** Effective October 1, 2015, Jeffrey M. Edwards of Granville
15 County is appointed to the North Carolina Irrigation Contractors' Licensing Board for a term
16 expiring on September 30, 2018.

17 **SECTION 1.31.** Matthew A. Grindstaff of Mitchell County, Ashley M. Honeycutt
18 of Wake County, Wanda Moore of New Hanover County, Karen A. McCall of Durham
19 County, Ryan S. Swanson of Wake County, Representative Becky Carney of Mecklenburg
20 County, Representative Dan Bishop of Mecklenburg County, and Representative Larry
21 Yarborough of Granville County are appointed to the Justus-Warren Heart Disease and Stroke
22 Prevention Task Force for terms expiring on June 30, 2017.

23 **SECTION 1.32.** Effective January 1, 2016, Rafe Rountree of Martin County is
24 appointed to the North Carolina Locksmith Licensing Board for a term expiring on December
25 31, 2018.

26 **SECTION 1.33.** Dean J. Jordan of Wake County is appointed to the Judicial
27 Standards Commission for a term expiring December 31, 2020, to fill the unexpired term of
28 James Testa.

29 **SECTION 1.34.** Ashley "Luke" Foster of Wake County, Nina S. Walker of Moore
30 County, and Douglas S. Ramsey of Alexander County are appointed to the North Carolina
31 Manufactured Housing Board for a term expiring on June 30, 2018.

32 **SECTION 1.35.** James J. Fitzsimmons of Mecklenburg County and Renee D. Hays
33 of Wake County are appointed to the North Carolina Board of Massage and Bodywork Therapy
34 for terms expiring on June 30, 2018.

35 **SECTION 1.36.(a)** Charles "Wayne" Dixon of Yadkin County is appointed to the
36 Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services for
37 a term expiring on June 30, 2017, to fill the unexpired term of Justin Brackett.

38 **SECTION 1.36.(b)** Dr. Peggy S. Terhune of Randolph County, Ann Shaw of
39 Randolph County, and Roger L. Dillard, Jr., of Forsyth County are appointed to the
40 Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services for
41 terms expiring on June 30, 2018.

42 **SECTION 1.37.** R. Gene Davis of Wake County and Mary Jo Cresimore of Wake
43 County are appointed to the Board of Trustees of the North Carolina Museum of Art for a term
44 expiring on June 30, 2017.

45 **SECTION 1.38.** Gregory F. Hauser of Mecklenburg County is appointed to the
46 911 Board for a term expiring on December 31, 2018, to fill the unexpired term of Johnny T.
47 Cole.

48 **SECTION 1.39.** Effective January 1, 2016, Patricia T. Campbell of Iredell County
49 is appointed to the North Carolina Board of Nursing for a term expiring on December 31, 2019.



1 **SECTION 1.40.** Diana Rashash of Onslow County is appointed to the North
2 Carolina Onsite Wastewater Contractors and Inspectors Certification Board for a term expiring
3 on June 30, 2018.

4 **SECTION 1.41.(a)** Effective October 1, 2015, William "Larry" Stone of Cleveland
5 County is appointed to the Outdoor Heritage Advisory Council for a term expiring on
6 September 30, 2016.

7 **SECTION 1.41.(b)** Effective October 1, 2015, Harry M. Shaw of New Hanover
8 County is appointed to the Outdoor Heritage Advisory Council for a term expiring on
9 September 30, 2017.

10 **SECTION 1.41.(c)** Effective October 1, 2015, Cameron V. Boltes of Beaufort
11 County is appointed to the Outdoor Heritage Advisory Council for a term expiring on
12 September 30, 2018.

13 **SECTION 1.42.** Dr. Vinod K. Goel of Wake County is appointed to the North
14 Carolina Parks and Recreation Authority for a term expiring on July 1, 2018.

15 **SECTION 1.43.** The Honorable Joy A. Jones of Johnston County is appointed to
16 the Permanency Innovation Initiative Oversight Committee for a term expiring on June 30,
17 2018.

18 **SECTION 1.44.** Thomas W. Adams of Brunswick County is appointed to the
19 North Carolina State Ports Authority for a term expiring on June 30, 2017.

20 **SECTION 1.45.** Jeremy Johnson of Pamlico County is appointed to the North
21 Carolina Principal Fellows Commission for a term expiring on June 30, 2019.

22 **SECTION 1.46.** Marcus Benson of New Hanover County, William J. Fletcher, Jr.,
23 of Wilkes County, David C. Arndt of Surry County, and Clyde R. Cook, Jr., of Wake County
24 are appointed to the Private Protective Services Board for terms expiring on June 30, 2018.

25 **SECTION 1.47.** Terry Wheeler of Dare County is appointed to the State Property
26 Tax Commission for a term expiring on June 30, 2019.

27 **SECTION 1.48.** John Michael Causey of Guilford County is appointed to the
28 Public Officers and Employees Liability Insurance Committee for a term expiring on June 30,
29 2019.

30 **SECTION 1.49.** The Honorable George Rountree III of New Hanover and Gervais
31 A. Oxendine of Robeson County are appointed to the North Carolina Railroad Company Board
32 of Directors for terms expiring on June 30, 2019.

33 **SECTION 1.50.** Tracy J. Warren of Beaufort County is appointed to the North
34 Carolina Recreational Therapy Licensure Board for a term expiring on June 30, 2016, to fill the
35 unexpired term of Dianne Layden.

36 **SECTION 1.51.** Effective September 1, 2015, Dr. Eric L. Olson of Durham
37 County and Larry Bruce Simpson of Alamance County are appointed to the North Carolina
38 Respiratory Care Board for terms expiring on August 31, 2018.

39 **SECTION 1.52.** Gayle S. Drummond of Dare County, William F. Small of Dare
40 County, and Earl W. Willis, Jr., of Chowan County are appointed to the Roanoke Island
41 Commission for terms expiring on June 30, 2017.

42 **SECTION 1.53.** Danny E. Britt, Jr., of Robeson County, Garth K. Dunklin of
43 Mecklenburg County, and Stephanie M. Simpson of Wake County are appointed to the Rules
44 Review Commission for terms expiring on June 30, 2017.

45 **SECTION 1.54.(a)** G.S. 143B-472.128(c) requires the terms of members of the
46 Rural Infrastructure Authority to be staggered. To stagger the terms of the members appointed
47 on November 21, 2013, to the Rural Infrastructure Authority pursuant to
48 G.S. 143B-472.128(b)(3), the terms of those members shall be amended as follows:

- 49 (1) Lee Grantham's term expired on June 30, 2014.
- 50 (2) Darrell McCormick's term expired on June 30, 2015.
- 51 (3) Brady Dickson's term expired on June 30, 2015.



(4) Elizabeth Foster's term shall expire on June 30, 2016.

(5) Lige Daughtridge's term shall expire on June 30, 2016.

SECTION 1.54.(b) Frank A. Stewart of Gaston County is appointed to the Rural Infrastructure Authority for a term expiring on June 30, 2016, to fill the unexpired term of Elizabeth Foster.

SECTION 1.54.(c) Lee Grantham of Robeson County is appointed to the Rural Infrastructure Authority for a term expiring on June 30, 2017.

SECTION 1.54.(d) Effective July 1, 2015, the Honorable Darrell McCormick of Yadkin County and Brady Dickson of Montgomery County are appointed to the Rural Infrastructure Authority for terms expiring on June 30, 2018.

SECTION 1.55. Bradley W. Langston of Forsyth County is appointed to the North Carolina Marine Industrial Park Authority for a term expiring on June 30, 2017.

SECTION 1.56. Dr. Ellen C. Collett of Burke County and Paul Powell of Guilford County are appointed to the Board of Trustees of the North Carolina School of Science and Mathematics for terms expiring on June 30, 2017.

SECTION 1.57. Enoch Moeller of Caldwell County is appointed to the North Carolina Board of Science and Technology for a term expiring on June 30, 2017.

SECTION 1.58. Sheriff James "Alan" Norman of Cleveland County is appointed to the North Carolina Sheriffs' Education and Training Standards Commission for a term expiring on June 30, 2017.

SECTION 1.59. Dr. Warren Newton of Orange County is appointed to the Board of Trustees of the State Health Plan for Teachers and State Employees for a term expiring on June 30, 2017.

SECTION 1.60.(a) G.S. 159G-70(b) requires the terms of State Water Infrastructure Authority members to be staggered. To stagger the terms, the term of the Honorable Calvin H. Stiles of Cherokee County to the State Water Infrastructure Authority expires on July 1, 2016.

SECTION 1.60.(b) Maria S. Hunnicutt of Rutherford County is appointed to the State Water Infrastructure Authority for a term expiring on July 1, 2017.

SECTION 1.61. Michael "Greg" Patterson of Wake County is appointed to the Board of Trustees of the Teachers' and State Employees' Retirement System for a term expiring on June 30, 2017.

SECTION 1.62. Culley C. Carson IV of Wake County is appointed to the University of North Carolina Center for Public Television Board of Trustees for a term expiring on June 30, 2017.

SECTION 1.63. Roger W. Knight of Wake County is appointed to the Umstead Review Panel for a term expiring on June 30, 2017, to fill the unexpired term of Robert T. "Bob" Numbers II.

SECTION 1.64. Douglas C. McVey of Madison County is appointed to the Well Contractors Certification Commission for a term expiring on June 30, 2018.

SECTION 1.65. The Honorable Timothy L. Spear of Washington County, John A. Stone of Moore County, Dean D. Proctor of Catawba County, and Tommy Fonville of Wake County are appointed to the North Carolina Wildlife Resources Commission for terms expiring on June 30, 2017.

SECTION 1.66.(a) Raymond T. Covington of Guilford County is appointed to the North Carolina Oil and Gas Commission for a term expiring on June 30, 2016.

SECTION 1.66.(b) Dr. Karen Sullivan Glaser of Lee County is appointed to the North Carolina Oil and Gas Commission for a term expiring on June 30, 2017.

SECTION 1.66.(c) Charles Taylor of Lee County is appointed to the North Carolina Oil and Gas Commission for a term expiring on June 30, 2018.



1 **SECTION 1.67.(a)** Johnny Hutchins of Cleveland County is appointed to the
2 North Carolina Mining Commission for a term expiring on June 30, 2019.

3 **SECTION 1.67.(b)** Samuel T. Bratton of Wake County is appointed to the North
4 Carolina Mining Commission for a term expiring on June 30, 2020.

5
6 **PART II. PRESIDENT PRO TEMPORE'S RECOMMENDATIONS**

7 **SECTION 2.1.(a)** Toni Rittenburg of Craven County is appointed to the
8 Acupuncture Licensing Board for a term expiring on June 30, 2016, to fill the unexpired term
9 of Nancy Fuller.

10 **SECTION 2.1.(b)** Shandy Cline of Caldwell County is appointed to the
11 Acupuncture Licensing Board for a term expiring on June 30, 2018.

12 **SECTION 2.2.** Effective October 1, 2015, Charles E. Evans of Cumberland
13 County is appointed to the African-American Heritage Commission for a term expiring on
14 September 30, 2018.

15 **SECTION 2.3.** R. Gerald Warren of Sampson County is appointed to the North
16 Carolina Agricultural Finance Authority for a term expiring on July 1, 2018.

17 **SECTION 2.4.(a)** Margaret Sandroock of Harnett County is appointed to the North
18 Carolina Appraisal Board for a term expiring on June 30, 2017, to fill the unexpired term of
19 David Goldberg.

20 **SECTION 2.4.(b)** The Honorable Fern Haywood Shubert of Guilford County is
21 appointed to the North Carolina Appraisal Board for a term expiring on June 30, 2018.

22 **SECTION 2.5.** Janah Fletcher of Guilford County and Kevin D. Allran of
23 Mecklenburg County are appointed to the North Carolina Board of Athletic Trainer Examiners
24 for terms expiring on June 30, 2018.

25 **SECTION 2.6.** Effective October 1, 2015, Ryan Harshman of Onslow County,
26 Donna White of Wake County, and Carol S. Gouge of Davidson County are appointed to the
27 North Carolina Brain Injury Advisory Council for terms expiring on September 30, 2019.

28 **SECTION 2.7.** Sherry Reeves of Pamlico County is appointed to the North
29 Carolina Charter Schools Advisory Board for a term expiring on June 30, 2017.

30 **SECTION 2.8.** April Duvall of Macon County, Melanie C. Gayle of Moore
31 County, and William C. Walton III of Pitt County are appointed to the North Carolina Child
32 Care Commission for terms expiring on June 30, 2017.

33 **SECTION 2.9.** Philip Isley of Wake County, Patricia A. Long of Wake County,
34 Wendell Holmes Murphy of Duplin County, Randall C. Ramsey of Carteret County, and
35 Cassius Williams of Wake County are appointed to the Centennial Authority for terms expiring
36 on June 30, 2019.

37 **SECTION 2.10.** Orson Scott Card of Guilford County is appointed to the
38 University of North Carolina Center for Public Television Board of Trustees for a term expiring
39 on June 30, 2017.

40 **SECTION 2.11.(a)** G.S. 13A-255(b) requires the terms of the members of the
41 North Carolina Clean Water Management Trust Fund Board of Trustees to be staggered. To
42 stagger the terms, William Toole of Gaston County is appointed to the North Carolina Clean
43 Water Management Trust Fund Board of Trustees for a term expiring on July 1, 2016.

44 **SECTION 2.11.(b)** Johnny Martin of Wake County is appointed to the North
45 Carolina Clean Water Management Trust Fund Board of Trustees for a term expiring on July 1,
46 2018.

47 **SECTION 2.12.** Phil Norris of Brunswick County is appointed to the North
48 Carolina Coastal Resources Commission for a term expiring on June 30, 2019.

49 **SECTION 2.13.(a)** G.S. 143-151.9(b) requires the terms of the members of the
50 North Carolina Code Qualification Board to be staggered. To stagger the terms, Kenneth D.



1 Stafford of Alamance County is appointed to the North Carolina Code Officials Qualification
2 Board for a term expiring on July 1, 2017.

3 **SECTION 2.13.(b)** Ray Rice of Alamance County is appointed to the North
4 Carolina Code Officials Qualification Board for a term expiring on July 1, 2019.

5 **SECTION 2.14.** Ron Parrish of Alamance County, Richard Epley of Burke
6 County, Teresa Jardon of Caldwell County, and Michael Slagle of Mitchell County are
7 appointed to the North Carolina Criminal Justice Education and Training Standards
8 Commission for terms expiring on June 30, 2017.

9 **SECTION 2.15.** Shaynee Roper of Durham County is appointed to the North
10 Carolina Board of Dietetics/Nutrition for a term expiring on June 30, 2018.

11 **SECTION 2.16.** Randy A. Moreau of New Hanover County is appointed to the
12 Disciplinary Hearing Commission of the North Carolina State Bar for a term expiring on June
13 30, 2018.

14 **SECTION 2.17.** Effective September 1, 2015, Cathy Cloninger of Gaston County,
15 Nathaniel C. Parker of Wake County, Pamela T. Thompson of Alamance County, and Rekha J.
16 Parikh of Wake County are appointed to the Domestic Violence Commission for terms expiring
17 on August 31, 2017.

18 **SECTION 2.18.** Effective December 1, 2015, D. Anthony Blackman of Wake
19 County is appointed to the Economic Investment Committee for a term expiring on November
20 30, 2017.

21 **SECTION 2.19.** Effective January 1, 2016, Senator Dan Soucek of Watauga
22 County is appointed to the Education Commission of the States for a term expiring on
23 December 31, 2017.

24 **SECTION 2.20.** Effective January 1, 2016, James R. Gusler of Caswell County is
25 appointed to the North Carolina Emergency Medical Services Advisory Council for a term
26 expiring on December 31, 2019.

27 **SECTION 2.21.** Effective August 1, 2015, David W. Anderson of Johnston
28 County and Charles M. Elam of Pender County are appointed to the North Carolina
29 Environmental Management Commission for terms expiring on July 31, 2019.

30 **SECTION 2.22.** Craig Olive of Johnston County is appointed to the North
31 Carolina Board of Funeral Service for a term expiring on December 31, 2017.

32 **SECTION 2.23.** George Andrew of Brunswick County and Joseph W. Koletar of
33 Brunswick County are appointed to the Board of Directors of the North Carolina Global
34 TransPark Authority for terms expiring on June 30, 2019.

35 **SECTION 2.24.** Fred J. Herndon of Durham County is appointed to the North
36 Carolina Home Inspector Licensure Board for a term expiring on June 30, 2019.

37 **SECTION 2.25.** Alton Stancil Barnes of Edgecombe County and Dean Carpenter
38 of Gaston County are appointed to the North Carolina Housing Finance Agency Board of
39 Directors for terms expiring June 30, 2017.

40 **SECTION 2.26.** Effective July 1, 2014, Ross Beamon of Wake County is
41 appointed to the North Carolina Human Resources Commission for a term expiring on June 30,
42 2018.

43 **SECTION 2.27.(a)** Effective January 1, 2016, David Sousa of Wake County,
44 Sarah R. Jordan of Watauga County, and Paul R. Cunningham of Pitt County are appointed to
45 the North Carolina Institute of Medicine Board of Directors for terms expiring on December
46 31, 2019.

47 **SECTION 2.27.(b)** Leonard A. Ellis of Mitchell County is appointed to the North
48 Carolina Institute of Medicine Board of Directors for a term expiring on December 31, 2017, to
49 fill the unexpired term of Matthew T. Johnson.



1 **SECTION 2.28.** Effective October 1, 2015, Charles A. Allen of Cumberland
2 County is appointed to the North Carolina Irrigation Contractors' Licensing Board for a term
3 expiring on September 30, 2018.

4 **SECTION 2.29.(a)** Lauren Pruett of Davidson County is appointed to the North
5 Carolina Interpreter and Transliterator Licensing Board for a term expiring on June 30, 2017.

6 **SECTION 2.29.(b)** Jeffrey Trader of Johnston County and Kim Calabretta of
7 Wake County are appointed to the North Carolina Interpreter and Transliterator Licensing
8 Board for a term expiring on June 30, 2018.

9 **SECTION 2.30.** Senator Ronald J. Rabin of Harnett County, Senator Chad
10 Barefoot of Wake County, Senator Kathy Harrington of Gaston County, Helen Brann of Person
11 County, Shonda Corbett of Wake County, David Huang of Orange County, Chris Dobbins of
12 Gaston County, and Mike Patil of Orange County are appointed to the Justus-Warren Heart
13 Disease and Stroke Prevention Task Force for terms expiring on June 30, 2017.

14 **SECTION 2.31.** Effective January 1, 2016, Rebecca Anderson of Forsyth County,
15 Lloyd H. Jordan of Pitt County, and Lisa B. McCanna of Cabarrus County are appointed to the
16 License to Give Trust Fund Commission for terms expiring on December 31, 2017.

17 **SECTION 2.32.** Effective January 1, 2016, K. Reid Barbee of Onslow County and
18 Phillip Lanier of Forsyth County are appointed to the North Carolina Locksmith Licensing
19 Board for terms expiring on December 31, 2018.

20 **SECTION 2.33.** Effective October 1, 2015, the Honorable Hugh Webster of
21 Alamance County is appointed to the North Carolina Manufactured Housing Board expiring on
22 September 30, 2018.

23 **SECTION 2.34.** Johnnie Robbins of Dare County is appointed to the North
24 Carolina Marine Industrial Park Authority for a term expiring on June 30, 2017.

25 **SECTION 2.35.** Kimberly L. Turk of Durham County is appointed to the North
26 Carolina Board of Massage and Bodywork Therapy for a term expiring on June 30, 2017, to fill
27 the unexpired term of Darinda Davis.

28 **SECTION 2.36.** Melissa Gott of New Hanover County is appointed to the
29 Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services for
30 a term expiring on June 30, 2018.

31 **SECTION 2.37.** Shreita Powers of Forsyth County and Cindy Marrelli of Wake
32 County are appointed to the Board of Trustees of the North Carolina Museum of Art for terms
33 expiring on June 30, 2017.

34 **SECTION 2.38.** Glenn Hines of Currituck County is appointed to the North
35 Carolina On-Site Wastewater Contractors and Inspectors Certification Board for a term
36 expiring on June 30, 2018.

37 **SECTION 2.39.(a)** Effective October 1, 2015, Owen D. Andrews of Craven
38 County is appointed to the North Carolina Outdoor Heritage Advisory Council for a term
39 expiring on September 30, 2016.

40 **SECTION 2.39.(b)** Effective October 1, 2015, Kevin Howell of Henderson County
41 is appointed to the North Carolina Outdoor Heritage Advisory Council for a term expiring on
42 September 30, 2017.

43 **SECTION 2.39.(c)** Effective October 1, 2015, Arthur Dick of Guilford County is
44 appointed to the North Carolina Outdoor Heritage Advisory Council for a term expiring on
45 September 30, 2018.

46 **SECTION 2.40.(a)** Chad R. Brown of Gaston County is appointed to the North
47 Carolina Parks and Recreation Authority for a term expiring on June 30, 2017, to fill the
48 unexpired term of Westin Boardeaux.

49 **SECTION 2.40.(b)** Lisa Wolff of Alamance County is appointed to the North
50 Carolina Parks and Recreation Authority for a term expiring on June 30, 2018.



1 **SECTION 2.41.** Kristin C. O'Connor of Wake County is appointed to the
2 Permanency Innovation Initiative Oversight Committee for a term expiring on June 30, 2018.

3 **SECTION 2.42.** Timothy D. Barnsback of Burke County is appointed to the North
4 Carolina Principal Fellows Commission for a term expiring on June 30, 2019.

5 **SECTION 2.43.** Richard Epley of Burke County, William Macrae of Wake
6 County, and Eric Weaver of Wake County are appointed to the Private Protective Services
7 Board for terms expiring on June 30, 2018.

8 **SECTION 2.44.** Graham H. Atkinson of Surry County is appointed to the Public
9 Officers and Employees Liability Insurance Commission for a term expiring on June 30, 2019.

10 **SECTION 2.45.** Michael Walters of Wake County and Franklin Rouse of
11 Brunswick County are appointed to the North Carolina Railroad Company Board of Directors
12 for terms expiring on June 30, 2019.

13 **SECTION 2.46.** Effective November 1, 2015, Edward C. Bratzke of Wake County
14 is appointed to the North Carolina Respiratory Care Board for a term expiring on October 31,
15 2018.

16 **SECTION 2.47.** Robert H. Quinn of Chowan County, John Robbins of Dare
17 County, and Peregrine White of Dare County are appointed to the Roanoke Island Commission
18 for terms expiring on June 30, 2017.

19 **SECTION 2.48.** Margaret Currin of Wake County, John Randolph Hemphill of
20 Wake County, Jeffrey T. Hyde of Guilford County, Robert Bryan of Wake County, and Jeffrey
21 Poley of Wake County are appointed to the Rules Review Commission for terms expiring on
22 June 30, 2017.

23 **SECTION 2.49.** Charles M. DeVane of Bladen County is appointed to the Rural
24 Infrastructure Authority for a term expiring on June 30, 2018.

25 **SECTION 2.50.** Samuel H. Houston of Wake County is appointed to the North
26 Carolina Board of Science and Technology for a term expiring on June 30, 2017.

27 **SECTION 2.51.** W.M. Nichols of Wake County is appointed to the North Carolina
28 Sheriffs' Education and Training Standards Commission for a term expiring on June 30, 2017.

29 **SECTION 2.52.** Aaron K. Thomas of Robeson County is appointed to the North
30 Carolina State Building Commission for a term expiring on June 30, 2018.

31 **SECTION 2.53.** Dr. Aaron McKethan of Orange County is appointed to the Board
32 of Trustees of the State Health Plan for Teachers and State Employees for a term expiring on
33 June 30, 2017.

34 **SECTION 2.54.** Daniel Locklear of Robeson County is appointed to the North
35 Carolina State Commission of Indian Affairs for a term expiring on June 30, 2017.

36 **SECTION 2.55.** Erica S. Gallion of Harnett County is appointed to the State
37 Judicial Council for a term expiring on December 31, 2018.

38 **SECTION 2.56.** William Peaslee of Wake County is appointed to the State
39 Property Tax Commission for a term expiring on June 30, 2019.

40 **SECTION 2.57.** Pat Joyce of Carteret County is appointed to the North Carolina
41 State Ports Authority for a term expiring on June 30, 2017.

42 **SECTION 2.58.** Warren "Lentz" Brewer of New Hanover County is appointed to
43 the Board of Trustees of the Teachers' and State Employees' Retirement System for a term
44 expiring on June 30, 2017.

45 **SECTION 2.59.** Jim Walker of Gaston County is appointed to the North Carolina
46 Turnpike Authority Board for a term expiring on January 14, 2019.

47 **SECTION 2.60.** Daniel Ortiz of Sampson County is appointed to the Well
48 Contractors Certification Commission for a term expiring on June 30, 2018.

49 **SECTION 2.61.** Mark Craig of Guilford County, Landon Zimmer of New Hanover
50 County, Garry Spence of Mecklenburg County, and Thomas Berry of Guilford County are



1 appointed to the North Carolina Wildlife Resources Commission for terms expiring on June 30,
2 2017.

3 **SECTION 2.62.(a)** Brian K. North of Guilford County is appointed to the North
4 Carolina Mining Commission for a term expiring on June 30, 2017.

5 **SECTION 2.62.(b)** Douglas Boyette II of Wake County is appointed to the North
6 Carolina Mining Commission for a term expiring on June 30, 2021.

7 **SECTION 2.63.(a)** Kirk D. Smith of Lee County is appointed to the North
8 Carolina Oil and Gas Commission for a term expiring on June 30, 2016.

9 **SECTION 2.63.(b)** John T. Lucey Jr. of New Hanover County is appointed to the
10 North Carolina Oil and Gas Commission for a term expiring on June 30, 2017.

11 **SECTION 2.63.(c)** James T. Womack of Lee County is appointed to the North
12 Carolina Oil and Gas Commission for a term expiring on June 30, 2018.

13
14 **PART III. SENATE MINORITY LEADER'S RECOMMENDATIONS**

15 **SECTION 3.** Effective January 1, 2015, Monika Hostler of Wake County is
16 appointed to the North Carolina Partnership for Children, Inc., Board of Directors for a term
17 expiring on December 31, 2017.

18
19 **PART IV. EFFECTIVE DATE**

20 **SECTION 4.1.** Unless otherwise specified, all appointments made by this act are
21 for terms to begin upon ratification of this act.

22 **SECTION 4.2.** This act is effective when it becomes law.





NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 272

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H272-ALG-44 [v.3]

Page 1 of 1

Amends Title [NO]
H272-CSLG-8

Date _____, 2015

Senator Apodaca

- 1 moves to amend the bill on page 3, line 9, by deleting the word "Forsyth" and substituting
- 2 "Wake"; and
- 3
- 4 on page 3, line 32, by deleting the phrase "James J. Fitzsimmons of Mecklenburg" and
- 5 substituting "Melissa Ann Smith of Guilford"; and
- 6
- 7 on page 5, line 45, by deleting the phrase "Raymond T." and substituting "Raymond P.".
- 8
- 9

SIGNED _____

Amendment Sponsor

SIGNED _____

Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED _____

TABLED _____



* H 2 7 2 - A L G - 4 4 - V - 3 *

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

3

HOUSE BILL 436
Committee Substitute Favorable 4/15/15
Third Edition Engrossed 4/20/15

Short Title: Unauthorized Practice of Law Changes.

(Public)

Sponsors:

Referred to:

April 1, 2015

A BILL TO BE ENTITLED

AN ACT TO FURTHER DEFINE THE TERM "PRACTICE LAW" FOR THE PURPOSE OF PROTECTING MEMBERS OF THE PUBLIC FROM SERIOUS HARM RESULTING FROM THE UNAUTHORIZED PRACTICE OF LAW BY A PERSON WHO IS NOT A TRAINED AND LICENSED ATTORNEY AND TO ESTABLISH A PROCESS OF REVIEW BY THE ATTORNEY GENERAL PRIOR TO ANY ACTION BY THE STATE BAR TO ENJOIN THE UNAUTHORIZED PRACTICE OF LAW.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 84-2.1 reads as rewritten:

"§ 84-2.1. "Practice law" defined.

(a) The phrase "practice law" as used in this Chapter is defined to be performing any legal service for any other person, firm or corporation, with or without compensation, specifically including the preparation or aiding in the preparation of deeds, mortgages, wills, trust instruments, inventories, accounts or reports of guardians, trustees, administrators or executors, or preparing or aiding in the preparation of any petitions or orders in any probate or court proceeding; abstracting or passing upon titles, the preparation and filing of petitions for use in any court, including administrative tribunals and other judicial or quasi-judicial bodies, or assisting by advice, counsel, or otherwise in any legal work; and to advise or give opinion upon the legal rights of any person, firm or corporation: Provided, that the above reference to particular acts which are specifically included within the definition of the phrase "practice law" shall not be construed to limit the foregoing general definition of the term, but shall be construed to include the foregoing particular acts, as well as all other acts within the general definition.

(b) The phrase "practice law" does not encompass any of the following:

(1) ~~the~~ The drafting or writing of memoranda of understanding or other mediation summaries by mediators at community mediation centers authorized by G.S. 7A-38.5 or by mediators of employment-related matters for The University of North Carolina or a constituent institution, or for an agency, commission, or board of the State of North Carolina.

(2) The production, distribution, or sale of materials, provided that all of the following are satisfied:

a. The production of the materials must have occurred entirely before any contact between the provider and the consumer.

b. During and after initial contact between the provider and the consumer, the provider's participation in creating or completing any



- 1 materials must be limited to typing, writing, or reproducing exactly
2 the information provided by the consumer as dictated by the
3 consumer or deleting content that is visible to the consumer at the
4 instruction of the consumer.
- 5 c. The provider does not select or assist in the selection of the product
6 for the consumer; provided, however, (i) operating a Web site that
7 requires the consumer to select the product to be purchased; (ii)
8 publishing descriptions of the products offered, when not done to
9 address the consumer's particular legal situation and when the
10 products offered and the descriptions published to every consumer
11 are identical; and (iii) publishing general information about the law,
12 when not done to address the consumer's particular legal situation
13 and when the general information published to every consumer is
14 identical, does not constitute assistance in selection of the product.
- 15 d. The provider does not provide any individualized legal advice to or
16 exercise any legal judgment for the consumer; provided, however,
17 that publishing general information about the law and describing the
18 products offered, when not done to address the consumer's particular
19 legal situation and when the general information published to every
20 consumer is identical and does not constitute legal advice or the
21 exercise of legal judgment.
- 22 e. During and after initial contact between the provider and the
23 consumer, the provider may not participate in any way in selecting
24 the content of the finished materials.
- 25 f. In the case of the sale of materials including information supplied by
26 the consumer through an Internet Web site or otherwise, the
27 consumer is provided a means to see the blank template or the final,
28 completed product before finalizing a purchase of that product.
- 29 g. The provider does not review the consumer's final product for errors
30 other than notifying the consumer (i) of spelling errors, (ii) that a
31 required field has not been completed, and (iii) that information
32 entered into a form or template by the consumer is factually
33 inconsistent with other information entered into the form or template
34 by the consumer.
- 35 h. The provider clearly and conspicuously communicates to the
36 consumer that the materials are not a substitute for the advice or
37 services of an attorney.
- 38 i. The provider discloses its legal name and physical location and
39 address to the consumer.
- 40 j. The provider does not disclaim any warranties or liability and does
41 not limit the recovery of damages or other remedies by the consumer.
- 42 k. The provider does not require the consumer to agree to jurisdiction or
43 venue in any state other than North Carolina for the resolution of
44 disputes between the provider and the consumer.
- 45 (3) The completion of a preprinted form by a real estate broker licensed under
46 Chapter 93A of the General Statutes, and prepared in accordance with rules
47 adopted by the North Carolina Real Estate Commission.
- 48 (c) For the purposes of this section, the following definitions shall apply:
- 49 (1) Materials. – Legal written materials, books, documents, templates, forms, or
50 computer software.

(2) Production. – Design, creation, publication, or display, including by means of an Internet Web site.

(3) Provider. – Designer, creator, publisher, distributor, displayer, or seller."

SECTION 2. G.S. 84-37 reads as rewritten:

"§ 84-37. State Bar may investigate and enjoin unauthorized activities.

(a) The Council or any committee appointed by it for that purpose may inquire into and investigate any charges or complaints of (i) ~~unauthorized-unauthorized, unlicensed, or unlawful~~ practice of law or (ii) the use of the designations, "North Carolina Certified Paralegal," "North Carolina State Bar Certified Paralegal," or "Paralegal Certified by the North Carolina State Bar Board of Paralegal Certification," by individuals who have not been certified in accordance with the rules adopted by the North Carolina State Bar, ~~Bar,~~ or (iii) noncompliance with G.S. 84-2.1(b)(2) by any provider of materials, as those terms are defined in G.S. 84-2.1(b)(2).

The Council may issue a letter of warning or, after complying with the provisions of subsection (a1) of this section, may issue a demand to cease and desist or bring or cause to be brought and maintained in the name of the North Carolina State Bar an action or actions, upon information or upon the complaint of any person or entity actions against any person or entity that engages in rendering any legal ~~service, service in violation of any provision of this Chapter,~~ holds himself or herself out as a North Carolina certified paralegal by use of the designations set forth in this subsection, or makes it a practice or business to render legal services that are unauthorized or prohibited by law. No bond for cost shall be required in the proceeding.

(a1) Prior to issuing a demand to cease and desist or bringing an action or actions as set forth in subsection (a) of this section, the Council, or any committee appointed by it for that purpose, shall submit the proposed demand to cease and desist or action and an explanation of why regulatory action by the Council is needed for review by the Attorney General. The Attorney General shall review the proposed demand to cease and desist or action and any material submitted in support thereof to ensure that the Council or any committee appointed by it is acting to protect the public interest and consistent with State policy and with the Council's authority as set forth in this Chapter. The purpose of the review by the Attorney General is to ensure that the proposed demand to cease and desist or action is State action that is consistent with the authority of the Council and that would be entitled to State action immunity under the federal antitrust laws. The Attorney General shall review the substance and procedure of any decision by the Council or any committee appointed to send a demand to cease and desist or to file an action to ensure that the proposed action is consistent with State policy. The Attorney General shall have the authority to approve or disapprove the proposed sending of a demand to cease and desist or the filing of an action or to modify any demand to cease and desist or action to ensure that it accords with State policy. The Council or any committee appointed by it for that purpose may forgo review by the Attorney General when seeking injunctive relief is necessary to prevent ongoing fraud or imminent harm to consumers or when the Council or any committee appointed by it for that purpose has made a specific determination in writing that the relief sought is not likely to have a material adverse effect on competition. The Attorney General may appoint a designee to perform any duties required or authority provided under this subsection.

(b) In an action brought under this section, the final judgment if in favor of the ~~plaintiff~~ North Carolina State Bar shall perpetually restrain the defendant or defendants from the commission or continuance of the ~~unauthorized-unauthorized, unlicensed, or unlawful~~ act or acts. A temporary injunction to restrain the commission or continuance of the act or acts may be granted upon proof or by affidavit, that the defendant or defendants have violated any of the laws applicable to ~~unauthorized-unauthorized, unlicensed, or unlawful~~ practice of law or the ~~unauthorized-unauthorized, unlicensed, or unlawful~~ use of the designations set forth in subsection (a) of this section or any other designation implying certification by the State Bar.

1 The provisions of law relating generally to injunctions as provisional remedies in actions shall
2 apply to a temporary injunction and the proceedings for temporary injunctions.

3 (c) The venue for actions brought under this section shall be the superior court of any
4 county in which the relevant acts are alleged to have been committed or in which there appear
5 reasonable grounds that they will be committed in the county where the defendants in the
6 action reside, or in Wake County.

7 (d) The ~~plaintiff in the action~~ North Carolina State Bar shall be entitled to obtain
8 documents and examine the adverse party and witnesses before filing complaint and before trial
9 in the same manner as provided by law for examining parties.

10 (e) This section shall not repeal or limit any remedy now provided in cases of
11 ~~unauthorized-unauthorized, unlicensed, or unlawful~~ practice of law. Nothing contained in this
12 section shall be construed as disabling or abridging the inherent powers of the court in these
13 matters.

14 (f) The Council or its duly appointed committee may issue advisory opinions in
15 response to inquiries from members or the public regarding whether contemplated conduct
16 would constitute the ~~unauthorized-unauthorized, unlicensed, or unlawful~~ practice of law."

17 **SECTION 3.** G.S. 84-10.1 reads as rewritten:

18 **"§ 84-10.1. Private cause of action for the unauthorized practice of law.**

19 If any person knowingly violates any of the provisions of G.S. 84-4 through G.S. 84-6 or
20 G.S. 84-9, fraudulently holds himself or herself out as a North Carolina certified paralegal by
21 use of the designations set forth in G.S. 84-37(a), or knowingly aids and abets another person to
22 commit the unauthorized practice of law, in addition to any other liability imposed pursuant to
23 this Chapter or any other applicable law, any person who is damaged by the unlawful acts set
24 out in this section shall be entitled to maintain a private cause of action to recover damages and
25 reasonable attorneys' ~~fees~~ fees and other injunctive relief as ordered by court. No order or
26 judgment under this section shall have any effect upon the ability of the North Carolina State
27 Bar to take any action authorized by this Chapter."

28 **SECTION 4.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

D

HOUSE BILL 436
Committee Substitute Favorable 4/15/15
Third Edition Engrossed 4/20/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H436-CSRO-32 [v.6]
9/22/2015 7:43:16 PM

Short Title: Unauthorized Practice of Law Changes.

(Public)

Sponsors:

Referred to:

April 1, 2015

A BILL TO BE ENTITLED
AN ACT TO FURTHER DEFINE THE TERM "PRACTICE LAW" FOR THE PURPOSE OF
PROTECTING MEMBERS OF THE PUBLIC FROM SERIOUS HARM RESULTING
FROM THE UNAUTHORIZED PRACTICE OF LAW BY A PERSON WHO IS NOT A
TRAINED AND LICENSED ATTORNEY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 84-2.1 reads as rewritten:

"§ 84-2.1. "Practice law" defined.

(a) The phrase "practice law" as used in this Chapter is defined to be performing any legal service for any other person, firm or corporation, with or without compensation, specifically including the preparation or aiding in the preparation of deeds, mortgages, wills, trust instruments, inventories, accounts or reports of guardians, trustees, administrators or executors, or preparing or aiding in the preparation of any petitions or orders in any probate or court proceeding; abstracting or passing upon titles, the preparation and filing of petitions for use in any court, including administrative tribunals and other judicial or quasi-judicial bodies, or assisting by advice, counsel, or otherwise in any legal work; and to advise or give opinion upon the legal rights of any person, firm or corporation: Provided, that the above reference to particular acts which are specifically included within the definition of the phrase "practice law" shall not be construed to limit the foregoing general definition of the term, but shall be construed to include the foregoing particular acts, as well as all other acts within the general definition.

(b) The phrase "practice law" does not ~~encompass~~ encompass:

(1) ~~the~~ The drafting or writing of memoranda of understanding or other mediation summaries by mediators at community mediation centers authorized by G.S. 7A-38.5 or by mediators of employment-related matters for The University of North Carolina or a constituent institution, or for an agency, commission, or board of the State of North Carolina.

(2) The operation of a website by a provider that offers consumers access to interactive software that generates a legal document based on the consumer's answers to questions presented by the software, provided that all of the following are satisfied:

a. The consumer is provided a means to see the blank template or the final, completed document before finalizing a purchase of that document.



* H 4 3 6 - C S R O - 3 2 - V - 6 *



- 1 b. An attorney licensed to practice law in the State of North Carolina
2 has reviewed each blank template offered to North Carolina
3 consumers, including each and every potential part thereof that may
4 appear in the completed document. The name and address of each
5 reviewing attorney must be kept on file by the provider and provided
6 to the consumer upon written request.
7 c. The provider must communicate to the consumer that the forms or
8 templates are not a substitute for the advice or services of an
9 attorney.
10 d. The provider discloses its legal name and physical location and
11 address to the consumer.
12 e. The provider does not disclaim any warranties or liability and does
13 not limit the recovery of damages or other remedies by the consumer.
14 f. The provider does not require the consumer to agree to jurisdiction or
15 venue in any state other than North Carolina for the resolution of
16 disputes between the provider and the consumer.
17 (3) The selection or completion of a preprinted form by a real estate broker
18 licensed under Chapter 93A of the General Statutes, when the broker is
19 acting as an agent in a real estate transaction and in accordance with rules
20 adopted by the North Carolina Real Estate Commission.
21 (4) The completion of or assisting a consumer in the completion of various
22 agreements, contracts, forms, and other documents related to the sale or
23 lease of a motor vehicle as defined in G.S. 20-286(10), or of products or
24 services ancillary or related to the sale or lease of a motor vehicle, by a
25 motor vehicle dealer licensed under Article 12 of Chapter 20 of the General
26 Statutes."

27 **SECTION 2.** G.S. 84-10.1 reads as rewritten:

28 **"§ 84-10.1. Private cause of action for the unauthorized practice of law.**

29 If any person knowingly violates any of the provisions of G.S. 84-4 through G.S. 84-6 or
30 G.S. 84-9, fraudulently holds himself or herself out as a North Carolina certified paralegal by
31 use of the designations set forth in G.S. 84-37(a), or knowingly aids and abets another person to
32 commit the unauthorized practice of law, in addition to any other liability imposed pursuant to
33 this Chapter or any other applicable law, any person who is damaged by the unlawful acts set
34 out in this section shall be entitled to maintain a private cause of action to recover damages and
35 reasonable attorneys' ~~fees~~-fees and other injunctive relief as ordered by court. No order or
36 judgment under this section shall have any effect upon the ability of the North Carolina State
37 Bar to take any action authorized by this Chapter."

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



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

FILED SENATE
Sep 23, 2015
S.J.R. 721
PRINCIPAL CLERK

S

D

SENATE JOINT RESOLUTION DRSJR15275-MM-132D (09/22)

Sponsors: Senator Apodaca (Primary Sponsor).

Referred to:

1 A JOINT RESOLUTION ADJOURNING THE 2015 REGULAR SESSION OF THE
2 GENERAL ASSEMBLY TO A DATE CERTAIN AND LIMITING THE MATTERS
3 THAT MAY BE CONSIDERED UPON RECONVENING.

4 Be it resolved by the Senate, the House of Representatives concurring:

5 **SECTION 1.** When the Senate and the House of Representatives adjourn on
6 Tuesday, September 29, 2015, they stand adjourned to reconvene on Monday, April 25, 2016,
7 at 7:00 P.M.

8 **SECTION 2.** During the regular session that reconvenes on Monday, April 25,
9 2016, only the following matters may be considered:

- 10 (1) Bills directly and primarily affecting the State budget, including the budget
11 of an occupational licensing board for fiscal year 2016-2017, provided that
12 the bill must be submitted to the Bill Drafting Division of the Legislative
13 Services Office no later than 4:00 P.M. Wednesday, April 27, 2016, and
14 must be introduced in the House of Representatives or filed for introduction
15 in the Senate no later than 4:00 P.M. Tuesday, May 9, 2016.
- 16 (2) Bills amending the Constitution of North Carolina.
- 17 (3) Bills and resolutions introduced in 2015 and having passed third reading in
18 2015 in the house in which introduced, received in the other house in
19 accordance with Senate Rule 41 or House Rule 31.1(h), as appropriate, and
20 not disposed of in the other house by tabling, unfavorable committee report,
21 indefinite postponement, or failure to pass any reading, and which do not
22 violate the rules of the receiving house.
- 23 (4) Bills and resolutions implementing the recommendations of:
- 24 a. Study commissions, authorities, and statutory commissions
25 authorized or directed to report to the 2016 Regular Session;
- 26 b. The General Statutes Commission, the Courts Commission, or any
27 commission created under Chapter 120 of the General Statutes that is
28 authorized or directed to report to the General Assembly;
- 29 c. The House Ethics Committee;
- 30 d. Select committees; or
- 31 e. The Joint Legislative Ethics Committee or its Advisory
32 Subcommittee.

33 A bill authorized by this subdivision must be submitted to the Bill Drafting
34 Division of the Legislative Services Office no later than 4:00 P.M. Tuesday,
35 April 26, 2016, and must be filed for introduction in the Senate or introduced
36 in the House of Representatives no later than 4:00 P.M. Tuesday, May 10,
37 2016.



- (5) Any local bill that has been submitted to the Bill Drafting Division of the Legislative Services Office by 4:00 P.M. Tuesday, May 3, 2016, is introduced in the House of Representatives or filed for introduction in the Senate by 4:00 P.M. Tuesday, May 19, 2016, and is accompanied by a certificate signed by the principal sponsor stating that no public hearing will be required or asked for by a member on the bill, the bill is noncontroversial, and that the bill is approved for introduction by each member of the House of Representatives and the Senate whose district includes the area to which the bill applies.
- (6) Selection, appointment, or confirmation as required by law, including the filling of vacancies of positions for which the appointees were elected by the General Assembly upon recommendation of the Speaker of the House of Representatives, President of the Senate, or President Pro Tempore of the Senate.
- (7) Any matter authorized by joint resolution passed by a two-thirds majority of the members of the House of Representatives present and voting and by a two-thirds majority of the members of the Senate present and voting. A bill or resolution filed in either house under the provisions of this subdivision shall have a copy of the ratified enabling resolution attached to the jacket before filing for introduction in the Senate or introduction in the House of Representatives.
- (8) A joint resolution authorizing the introduction of a bill pursuant to subdivision (7) of this section.
- (9) Any bills primarily affecting any State or local pension or retirement system, provided that the bill has been submitted to the Bill Drafting Division of the Legislative Services Office no later than 4:00 P.M. Tuesday, May 3, 2016, and is introduced in the House of Representatives or filed for introduction in the Senate no later than 4:00 P.M. Tuesday, May 19, 2016.
- (10) Joint resolutions, House resolutions, and Senate resolutions authorized for introduction under Senate Rule 40(b) or House Rule 31.
- (11) Bills:
- a. Revising the Senate districts and the apportionment of senators among those districts.
 - b. Revising the Representative districts and the apportionment of representatives among those districts.
 - c. Revising the districts for the election of members of the House of Representatives of the Congress of the United States and the apportionment of representatives among those districts.
 - d. Bills responding to actions related to the Voting Rights Act of 1965.
 - e. Bills responding to actions related to litigation concerning Congressional, State House, or State Senate districts.
- (12) Bills returned by the Governor with objections under Section 22 of Article II of the North Carolina Constitution, but solely for the purpose of considering overriding of the veto upon reconsideration of the bill.
- (13) Any bills relating to election laws.
- (14) Bills to disapprove rules under G.S. 150B-21.3.
- (15) A joint resolution adjourning the 2015 Regular Session, sine die.

SECTION 3. The Speaker of the House of Representatives or the President Pro Tempore of the Senate may authorize appropriate committees or subcommittees of their respective houses to meet during the interims between sessions to (i) review matters related to the State budget for the 2015-2017 fiscal biennium; (ii) prepare reports, including revised

1 budgets; or (iii) consider any other matters as the Speaker of the House of Representatives or
2 the President Pro Tempore of the Senate deems appropriate. A conference committee may meet
3 in the interim upon approval by the Speaker of the House of Representatives or the President
4 Pro Tempore of the Senate.

5 **SECTION 4.** This resolution is effective upon ratification.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

3

HOUSE BILL 318
Committee Substitute Favorable 4/15/15
Committee Substitute #2 Favorable 4/22/15

Short Title: Protect North Carolina Workers Act.

(Public)

Sponsors:

Referred to:

March 23, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE THE NUMBER OF EMPLOYERS WHO ARE REQUIRED TO
3 PARTICIPATE IN THE FEDERAL E-VERIFY PROGRAM; TO REPEAL THE
4 E-VERIFY EXEMPTION FOR TEMPORARY EMPLOYEES; TO EXCLUDE FARM
5 WORKERS FROM THE DEFINITION OF EMPLOYEE UNDER ARTICLE 2 OF
6 CHAPTER 64 OF THE GENERAL STATUTES; TO REQUIRE E-VERIFY
7 COMPLIANCE IN CERTAIN GOVERNMENTAL CONTRACTS; AND TO PROVIDE
8 THAT CERTAIN CONSULATE OR EMBASSY DOCUMENTS MAY NOT BE USED
9 TO DETERMINE A PERSON'S IDENTIFICATION OR RESIDENCE FOR
10 GOVERNMENTAL AND LAW ENFORCEMENT PURPOSES.

11 The General Assembly of North Carolina enacts:

12 SECTION 1. G.S. 64-25 reads as rewritten:
13 "§ 64-25. Definitions.

14 The following definitions apply in this Article:

- 15 (1) Commissioner. – The North Carolina Commissioner of Labor.
16 (2) Employ. – Hire an employee.
17 (3) Employee. – Any individual who provides services or labor for an employer
18 in this State for wages or other remuneration. ~~The term does not include an~~
19 ~~individual whose term of employment is less than nine months in a calendar~~
20 ~~year.~~ The term does not include a farm worker, an independent contractor, or
21 an individual who provides domestic service in a private home that is
22 sporadic, irregular, or intermittent.
23 (4) Employer. – Any person, business entity, or other organization that transacts
24 business in this State and that employs ~~25~~ five or more employees in this
25 State. This term does not include State agencies, counties, municipalities, or
26 other governmental bodies.
27 (5) E-Verify. – The federal E-Verify program operated by the United States
28 Department of Homeland Security and other federal agencies, or any
29 successor or equivalent program used to verify the work authorization of
30 newly hired employees pursuant to federal law.
31 (5a) Farm worker. – An individual who maintains farms, crops, or livestock by
32 doing physical labor or operating machinery under the supervision of a
33 farmer, rancher, or other agricultural manager. The term includes those who
34 perform tasks related to growing and harvesting grains, fruits, vegetables,



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nuts, Christmas trees, and other agricultural crops but does not include those who merely plant, transplant, or transport trees.

(5b) Independent contractor. – Any individual or entity who carries on independent business, contracts to do a piece of work according to the individual or entity's own means and methods, and is subject to control only as to results. Whether an individual or entity is an independent contractor, regardless of what the individual or entity calls itself, shall be determined on a case-by-case basis. Factors to be considered in that determination include, but are not limited to, whether the individual or entity supplies the tools or materials; makes services available to the general public; works for a number of clients at the same time; has an opportunity for profit or loss as a result of labor or services provided; invests in the facilities for work; directs the order or sequence in which the work is to be done; and determines the hours during which the work is to be done.

(6) Unauthorized alien. – As defined in 8 U.S.C. § 1324a(h)(3)."

SECTION 2.(a) Article 8 of Chapter 143 of the General Statutes is amended to add a new section to read:

"§ 143-133.3. E-verify compliance.

(a) No board or governing body of the State, or of any institution of the State government, or of any political subdivision of the State, may enter into a contract unless the contractor, and the contractor's subcontractors under the contract, comply with the requirements of Article 2 of Chapter 64 of the General Statutes.

(b) A board or governing body of the State, or of any institution of the State government, or of any political subdivision of the State, shall be deemed in compliance with this section if the contract includes a term requiring the contractor, and the contractor's subcontractors, to comply with the requirements of Article 2 of Chapter 64 of the General Statutes.

(c) This section shall not apply to any of the following:

- (1) Expenses related to travel, including transportation and lodging, for employees, officers, agents, or members of State or local boards, commissions, committees, or councils.
- (2) Contracts solely for the purchase of goods, apparatus, supplies, materials, or equipment.
- (3) Contracts let under G.S. 143-129(e)(1), (9), or (9a).
- (4) Contracts let under G.S. 143-129(g)."

SECTION 2.(b) G.S. 160A-20.1(b) is repealed.

SECTION 2.(c) G.S. 153A-449(b) is repealed.

SECTION 3. G.S. 159-28(e) reads as rewritten:

"(e) Penalties. – If an officer or employee of a local government or public authority incurs an obligation or pays out or causes to be paid out any funds in violation of this section, he and the sureties on his official bond are liable for any sums so committed or disbursed. If the finance officer or any properly designated deputy finance officer gives a false certificate to any contract, agreement, purchase order, check, draft, or other document, he and the sureties on his official bond are liable for any sums illegally committed or disbursed thereby. Inclusion of the contract term in accordance with G.S. 143-133.3(b) shall be deemed in compliance with G.S. 143-133.3(a)."

SECTION 4. G.S. 64-27 reads as rewritten:

"§ 64-27. Commissioner of Labor to prepare complaint form.

(a) Preparation of Form. – The Commissioner shall prescribe a complaint form for a person to allege a violation of ~~G.S. 64-26~~ G.S. 64-26 or G.S. 143-133.3. The form shall clearly state that completed forms may be sent to the Commissioner.

(b) Certain Information Not Required. – The complainant shall not be required to list the complainant's social security number on the complaint form or to have the complaint notarized."

SECTION 5. G.S. 64-28 reads as rewritten:

"§ 64-28. Reporting of complaints.

(a) Filing of Complaint. – Any person with a good faith belief that ~~an employer is violating or has violated a violation of~~ G.S. 64-26 or G.S. 143-133.3 has occurred may file a complaint with the Commissioner setting forth the basis for that belief. The complaint may be on a form prescribed by the Commissioner pursuant to G.S. 64-27 or may be made in any other form that gives the Commissioner information that is sufficient to proceed with an investigation pursuant to G.S. 64-29. Nothing in this section shall be construed to prohibit the filing of anonymous complaints that are not submitted on a prescribed complaint form.

(b) False Statements a Misdemeanor. – A person who knowingly files a false ~~and or~~ frivolous complaint under this section is guilty of a Class 2 misdemeanor."

SECTION 6. G.S. 64-29 reads as rewritten:

"§ 64-29. Investigation of complaints.

(a) Investigation. – Upon receipt of a complaint ~~pursuant to G.S. 64-28 that an employer is allegedly violating or has allegedly violated G.S. 64-26, filed in accordance with G.S. 64-28,~~ the Commissioner shall investigate whether ~~the employer has in fact violated G.S. 64-26 a violation of~~ G.S. 64-26 or G.S. 143-133.3 has in fact occurred.

(b) Certain Complaints Shall Not Be Investigated. – The Commissioner shall not investigate complaints that are based solely on race, religion, gender, ethnicity, or national origin.

(c) Assistance by Law Enforcement. – The Commissioner may request that the State Bureau of Investigation assist in investigating a complaint under this section.

(d) Subpoena for Production of Documents. – The Commissioner may issue a subpoena for production of employment records that relate to the recruitment, hiring, employment, or termination policies, practices, or acts of employment as part of the investigation of a valid complaint under this section."

SECTION 7. G.S. 64-30 reads as rewritten:

"§ 64-30. Actions to be taken; hearing.

If, after an investigation, the Commissioner determines that the complaint is not false ~~and or~~ frivolous:

(1) If the alleged violation is of G.S. 64-26:

~~(1)a.~~ The Commissioner shall hold a hearing to determine if a violation of G.S. 64-26 has occurred and, if appropriate, impose civil penalties in accordance with the provisions of this Article.

~~(2)b.~~ If, during the course of the hearing required by ~~subdivision (1)~~ sub-subdivision a. of subdivision (1) of this section, the Commissioner concludes that there is a reasonable likelihood that an employee is an unauthorized alien, the Commissioner shall notify the following entities of the possible presence of an unauthorized alien:

~~a.1.~~ United States Immigration and Customs Enforcement.

~~b.2.~~ Local law enforcement agencies.

(2) If the alleged violation is of G.S. 143-133.3, the Commissioner shall hold a hearing to determine if a violation of the applicable statute has occurred and, if appropriate, shall take action under G.S. 64-33.1."

SECTION 8. The catch line for G.S. 64-31 reads as rewritten:

"§ 64-31. Consequences of first ~~violation~~-violation of G.S. 64-26."

SECTION 9. The catch line for G.S. 64-32 reads as rewritten:

"§ 64-32. Consequences of second ~~violation~~-violation of G.S. 64-26."

1 **SECTION 10.** The catch line for G.S. 64-33 reads as rewritten:

2 "**§ 64-33. Consequences of third or subsequent ~~violation.~~ violation of G.S. 64-26.**"

3 **SECTION 11.** Article 2 of Chapter 64 of the General Statutes is amended by
4 adding a new section to read:

5 "**§ 64-33.1. Consequences of violation of G.S. 143-133.3.**

6 For violation of G.S. 143-133.3, the Commissioner shall notify the board or governing body
7 of the State, or of any institution of the State government, or of any political subdivision of the
8 State, found to have committed the violation that the board or governing body of the State, or
9 of any institution of the State government, or of any political subdivision of the State, is in
10 violation of the applicable statute. The Department of Labor shall maintain a list of any boards
11 or governing bodies of the State, or of any institutions of the State government, or of any
12 political subdivisions of the State, issued notices pursuant to this section and shall make that list
13 available on its Web site."

14 **SECTION 12.** Chapter 15A of the General Statutes is amended by adding a new
15 Article to read:

16 "Article 18.

17 "Identification Documents.

18 "**§ 15A-306. Consulate documents not acceptable as identification.**

19 (a) The following documents are not acceptable for use in determining a person's actual
20 identity or residency by a justice, judge, clerk, magistrate, law enforcement officer, or other
21 government official:

22 (1) A matricula consular or other similar document, other than a valid passport,
23 issued by a consulate or embassy of another country.

24 (2) An identity document issued or created by any person, organization, county,
25 city, or other local authority, except where expressly authorized to be used
26 for this purpose by the General Assembly.

27 (b) No local government or law enforcement agency may establish, by policy or
28 ordinance, the acceptability of any of the documents described in subsection (a) of this section
29 as a form of identification to be used to determine the identity or residency of any person. Any
30 local government policy or ordinance that contradicts this section is hereby repealed."

31 **SECTION 13.** G.S. 20-7(b4) reads as rewritten:

32 "(b4) Examples of documents that are reasonably reliable indicators of residency include,
33 but are not limited to, any of the following:

34 (1) A pay stub with the payee's address.

35 (2) A utility bill showing the address of the applicant-payor.

36 (3) A contract for an apartment, house, modular unit, or manufactured home
37 with a North Carolina address signed by the applicant.

38 (4) A receipt for personal property taxes paid.

39 (5) A receipt for real property taxes paid to a North Carolina locality.

40 (6) A current automobile insurance policy issued to the applicant and showing
41 the applicant's address.

42 (7) A monthly or quarterly financial statement from a North Carolina regulated
43 financial institution.

44 (8) ~~A matricula consular or substantially similar document issued by the~~
45 ~~Mexican Consulate for North Carolina.~~

46 (9) ~~A document similar to that described in subsection (8) of this section, issued~~
47 ~~by the consulate or embassy of another country. This subdivision only~~
48 ~~applies if the Division has consulted with the United State Department of~~
49 ~~State and is satisfied with the reliability of such document."~~

50 **SECTION 14.** G.S. 58-2-164(c) reads as rewritten:

"(c) The insurer and its agent shall also take reasonable steps to verify that the information provided by an applicant regarding the applicant's address and the place the motor vehicle is garaged is correct. The insurer may take its own reasonable steps to verify residency or eligible risk status or may rely upon the agent verification of residency or eligible risk status to meet the insurer's verification obligations under this section. The agent shall retain copies of any items obtained under this section as required under the record retention rules adopted by the Commissioner and in accordance with G.S. 58-2-185. The agent may satisfy the requirements of this section by obtaining reliable proof of North Carolina residency from the applicant or the applicant's status as an eligible risk. Reliable proof of residency or eligible risk includes but is not limited to:

- (1) A pay stub with the payee's address.
- (2) A utility bill showing the address of the applicant-payor.
- (3) A lease for an apartment, house, modular unit, or manufactured home with a North Carolina address signed by the applicant.
- (4) A receipt for personal property taxes paid.
- (5) A receipt for real property taxes paid to a North Carolina locality.
- (6) A monthly or quarterly financial statement from a North Carolina regulated financial institution.
- (7) A valid unexpired North Carolina driver's license.
- ~~(8) A matricula consular or substantially similar document issued by the Mexican Consulate for North Carolina.~~
- ~~(9) A document similar to that described in subdivision (8) of this section, issued by the consulate or embassy of another country that would be accepted by the North Carolina Division of Motor Vehicles as set forth in G.S. 20-7(b4)(9).~~
- (10) A valid North Carolina vehicle registration.
- (11) A valid military ID.
- (12) A valid student ID for a North Carolina school or university."

SECTION 15. G.S. 108A-55.3(b) reads as rewritten:

"(b) An applicant may meet the requirements of subsection (a) of this section by providing at least two of the following documents:

- (1) A valid North Carolina drivers license or other identification card issued by the North Carolina Division of Motor Vehicles.
- (2) A current North Carolina rent or mortgage payment receipt, or current utility bill in the name of the applicant or the applicant's legal spouse showing a North Carolina address.
- (3) A valid North Carolina motor vehicle registration in the applicant's name and showing the applicant's current address.
- (4) A document showing that the applicant is employed in this State.
- (5) One or more documents proving that the applicant's domicile in the applicant's prior state of domicile has ended, such as closing of a bank account, termination of employment, or sale of a home.
- (6) The tax records of the applicant or the applicant's legal spouse, showing a current North Carolina address.
- (7) A document showing that the applicant has registered with a public or private employment service in this State.
- (8) A document showing that the applicant has enrolled the applicant's children in a public or private school or child care facility located in this State.
- (9) A document showing that the applicant is receiving public assistance or other services requiring proof of domicile, other than medical assistance, in this State.

- 1 (10) Records from a health department or other health care provider located in
2 this State showing the applicant's current North Carolina address.
- 3 (11) A written declaration made under penalty of perjury from a person who has
4 a social, family, or economic relationship with the applicant and who has
5 personal knowledge of the applicant's intent to live in North Carolina
6 permanently or for an indefinite period of time or that the applicant is
7 residing in North Carolina to seek employment or with a job commitment.
- 8 (12) Current North Carolina voter registration card.
- 9 (13) A document from the U.S. Department of Veterans Affairs, U.S. Department
10 of Defense, or the U.S. Department of Homeland Security verifying the
11 applicant's intent to live in North Carolina permanently or for an indefinite
12 period of time or that the applicant is residing in North Carolina to seek
13 employment or with a job commitment.
- 14 (14) Official North Carolina school records, signed by school officials, or
15 diplomas issued by North Carolina schools, including secondary schools,
16 community colleges, colleges, and universities verifying the applicant's
17 intent to live in North Carolina permanently or for an indefinite period of
18 time or that the applicant is residing in North Carolina to seek employment
19 or with a job commitment.
- 20 ~~(15) A document issued by the Mexican consular or other foreign consulate~~
21 ~~verifying the applicant's intent to live in North Carolina permanently or for~~
22 ~~an indefinite period of time or that the applicant is residing in North Carolina~~
23 ~~to seek employment or with a job commitment."~~

24 **SECTION 16.** This act becomes effective October 1, 2015, and applies to contracts
25 entered into on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

D

HOUSE BILL 318
Committee Substitute Favorable 4/15/15
Committee Substitute #2 Favorable 4/22/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H318-CSTC-60 [v.5]
9/22/2015 9:03:30 PM

Short Title: Protect North Carolina Workers Act.

(Public)

Sponsors:

Referred to:

March 23, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE E-VERIFY COMPLIANCE IN CERTAIN GOVERNMENTAL
3 CONTRACTS; TO PROVIDE THAT CERTAIN CONSULATE OR EMBASSY
4 DOCUMENTS MAY NOT BE USED TO DETERMINE A PERSON'S
5 IDENTIFICATION OR RESIDENCE FOR GOVERNMENTAL AND LAW
6 ENFORCEMENT PURPOSES; TO PROHIBIT ADOPTION OF SANCTUARY CITY
7 ORDINANCES, AND TO PROHIBIT THE DEPARTMENT OF HEALTH AND
8 HUMAN SERVICES FROM SEEKING CERTAIN WAIVERS.

9 The General Assembly of North Carolina enacts:

10 SECTION 1.(a) Article 8 of Chapter 143 of the General Statutes is amended to add
11 a new section to read:

12 "**§ 143-133.3. E-verify compliance.**

13 (a) No board or governing body of the State, or of any institution of the State
14 government, or of any political subdivision of the State, may enter into a contract unless the
15 contractor, and the contractor's subcontractors under the contract, comply with the requirements
16 of Article 2 of Chapter 64 of the General Statutes.

17 (b) A board or governing body of the State, or of any institution of the State
18 government, or of any political subdivision of the State, shall be deemed in compliance with
19 this section if the contract includes a term requiring the contractor, and the contractor's
20 subcontractors, to comply with the requirements of Article 2 of Chapter 64 of the General
21 Statutes.

22 (c) This section shall not apply to any of the following:

23 (1) Expenses related to travel, including transportation and lodging, for
24 employees, officers, agents, or members of State or local boards,
25 commissions, committees, or councils.

26 (2) Contracts solely for the purchase of goods, apparatus, supplies, materials, or
27 equipment.

28 (3) Contracts let under G.S. 143-129(e)(1), (9), or (9a).

29 (4) Contracts let under G.S. 143-129(g)."

30 SECTION 1.(b) G.S. 160A-20.1(b) is repealed.

31 SECTION 1.(c) G.S. 153A-449(b) is repealed.

32 SECTION 2. G.S. 159-28(e) reads as rewritten:

33 "(e) Penalties. – If an officer or employee of a local government or public authority
34 incurs an obligation or pays out or causes to be paid out any funds in violation of this section,





he and the sureties on his official bond are liable for any sums so committed or disbursed. If the finance officer or any properly designated deputy finance officer gives a false certificate to any contract, agreement, purchase order, check, draft, or other document, he and the sureties on his official bond are liable for any sums illegally committed or disbursed thereby. Inclusion of the contract term in accordance with G.S. 143-133.3(b) shall be deemed in compliance with G.S. 143-133.3(a)."

SECTION 3. G.S. 64-27 reads as rewritten:

"§ 64-27. Commissioner of Labor to prepare complaint form.

(a) Preparation of Form. – The Commissioner shall prescribe a complaint form for a person to allege a violation of ~~G.S. 64-26~~ G.S. 64-26 or G.S. 143-133.3. The form shall clearly state that completed forms may be sent to the Commissioner.

(b) Certain Information Not Required. – The complainant shall not be required to list the complainant's social security number on the complaint form or to have the complaint notarized."

SECTION 4. G.S. 64-28 reads as rewritten:

"§ 64-28. Reporting of complaints.

(a) Filing of Complaint. – Any person with a good faith belief that ~~an employer is violating or has violated a violation of G.S. 64-26 or G.S. 143-133.3~~ has occurred may file a complaint with the Commissioner setting forth the basis for that belief. The complaint may be on a form prescribed by the Commissioner pursuant to G.S. 64-27 or may be made in any other form that gives the Commissioner information that is sufficient to proceed with an investigation pursuant to G.S. 64-29. Nothing in this section shall be construed to prohibit the filing of anonymous complaints that are not submitted on a prescribed complaint form.

(b) False Statements a Misdemeanor. – A person who knowingly files a false ~~and or~~ frivolous complaint under this section is guilty of a Class 2 misdemeanor."

SECTION 5. G.S. 64-29 reads as rewritten:

"§ 64-29. Investigation of complaints.

(a) Investigation. – Upon receipt of a complaint ~~pursuant to G.S. 64-28 that an employer is allegedly violating or has allegedly violated G.S. 64-26, filed in accordance with G.S. 64-28,~~ the Commissioner shall investigate whether the employer has in fact violated G.S. 64-26 a violation of G.S. 64-26 or G.S. 143-133.3 has in fact occurred.

(b) Certain Complaints Shall Not Be Investigated. – The Commissioner shall not investigate complaints that are based solely on race, religion, gender, ethnicity, or national origin.

(c) Assistance by Law Enforcement. – The Commissioner may request that the State Bureau of Investigation assist in investigating a complaint under this section.

(d) Subpoena for Production of Documents. – The Commissioner may issue a subpoena for production of employment records that relate to the recruitment, hiring, employment, or termination policies, practices, or acts of employment as part of the investigation of a valid complaint under this section."

SECTION 6. G.S. 64-30 reads as rewritten:

"§ 64-30. Actions to be taken; hearing.

If, after an investigation, the Commissioner determines that the complaint is not false ~~and or~~ frivolous:

(1) If the alleged violation is of G.S. 64-26:

~~(1)a.~~ The Commissioner shall hold a hearing to determine if a violation of G.S. 64-26 has occurred and, if appropriate, impose civil penalties in accordance with the provisions of this Article.

~~(2)b.~~ If, during the course of the hearing required by ~~subdivision (1)~~ sub-subdivision a. of subdivision (1) of this section, the Commissioner concludes that there is a reasonable likelihood that an



employee is an unauthorized alien, the Commissioner shall notify the following entities of the possible presence of an unauthorized alien:

~~a-1.~~ United States Immigration and Customs Enforcement.

~~b-2.~~ Local law enforcement agencies.

(2) If the alleged violation is of G.S. 143-133.3, the Commissioner shall hold a hearing to determine if a violation of the applicable statute has occurred and, if appropriate, shall take action under G.S. 64-33.1."

SECTION 7. The catch line for G.S. 64-31 reads as rewritten:

"§ 64-31. Consequences of first ~~violation~~-violation of G.S. 64-26."

SECTION 8. The catch line for G.S. 64-32 reads as rewritten:

"§ 64-32. Consequences of second ~~violation~~-violation of G.S. 64-26."

SECTION 9. The catch line for G.S. 64-33 reads as rewritten:

"§ 64-33. Consequences of third or subsequent ~~violation~~-violation of G.S. 64-26."

SECTION 10. Article 2 of Chapter 64 of the General Statutes is amended by adding a new section to read:

"§ 64-33.1. Consequences of violation of G.S. 143-133.3.

For violation of G.S. 143-133.3, the Commissioner shall notify the board or governing body of the State, or of any institution of the State government, or of any political subdivision of the State, found to have committed the violation that the board or governing body of the State, or of any institution of the State government, or of any political subdivision of the State, is in violation of the applicable statute. The Department of Labor shall maintain a list of any boards or governing bodies of the State, or of any institutions of the State government, or of any political subdivisions of the State, issued notices pursuant to this section and shall make that list available on its Web site."

SECTION 11. Chapter 15A of the General Statutes is amended by adding a new Article to read:

"Article 18.

"Identification Documents.

"§ 15A-306. Consulate documents not acceptable as identification.

(a) The following documents are not acceptable for use in determining a person's actual identity or residency by a justice, judge, clerk, magistrate, law enforcement officer, or other government official:

(1) A matricula consular or other similar document, other than a valid passport, issued by a consulate or embassy of another country.

(2) An identity document issued or created by any person, organization, county, city, or other local authority, except where expressly authorized to be used for this purpose by the General Assembly.

(b) No local government or law enforcement agency may establish, by policy or ordinance, the acceptability of any of the documents described in subsection (a) of this section as a form of identification to be used to determine the identity or residency of any person. Any local government policy or ordinance that contradicts this section is hereby repealed."

SECTION 12. G.S. 20-7(b4) reads as rewritten:

"(b4) Examples of documents that are reasonably reliable indicators of residency include, but are not limited to, any of the following:

(1) A pay stub with the payee's address.

(2) A utility bill showing the address of the applicant-payor.

(3) A contract for an apartment, house, modular unit, or manufactured home with a North Carolina address signed by the applicant.

(4) A receipt for personal property taxes paid.

(5) A receipt for real property taxes paid to a North Carolina locality.



- (6) A current automobile insurance policy issued to the applicant and showing the applicant's address.
- (7) A monthly or quarterly financial statement from a North Carolina regulated financial institution.
- ~~(8) A matricula consular or substantially similar document issued by the Mexican Consulate for North Carolina.~~
- ~~(9) A document similar to that described in subsection (8) of this section, issued by the consulate or embassy of another country. This subdivision only applies if the Division has consulted with the United State Department of State and is satisfied with the reliability of such document."~~

SECTION 13. G.S. 58-2-164(c) reads as rewritten:

"(c) The insurer and its agent shall also take reasonable steps to verify that the information provided by an applicant regarding the applicant's address and the place the motor vehicle is garaged is correct. The insurer may take its own reasonable steps to verify residency or eligible risk status or may rely upon the agent verification of residency or eligible risk status to meet the insurer's verification obligations under this section. The agent shall retain copies of any items obtained under this section as required under the record retention rules adopted by the Commissioner and in accordance with G.S. 58-2-185. The agent may satisfy the requirements of this section by obtaining reliable proof of North Carolina residency from the applicant or the applicant's status as an eligible risk. Reliable proof of residency or eligible risk includes but is not limited to:

- (1) A pay stub with the payee's address.
- (2) A utility bill showing the address of the applicant-payor.
- (3) A lease for an apartment, house, modular unit, or manufactured home with a North Carolina address signed by the applicant.
- (4) A receipt for personal property taxes paid.
- (5) A receipt for real property taxes paid to a North Carolina locality.
- (6) A monthly or quarterly financial statement from a North Carolina regulated financial institution.
- (7) A valid unexpired North Carolina driver's license.
- ~~(8) A matricula consular or substantially similar document issued by the Mexican Consulate for North Carolina.~~
- ~~(9) A document similar to that described in subdivision (8) of this section, issued by the consulate or embassy of another country that would be accepted by the North Carolina Division of Motor Vehicles as set forth in G.S. 20-7(b4)(9).~~
- (10) A valid North Carolina vehicle registration.
- (11) A valid military ID.
- (12) A valid student ID for a North Carolina school or university."

SECTION 14. G.S. 108A-55.3(b) reads as rewritten:

"(b) An applicant may meet the requirements of subsection (a) of this section by providing at least two of the following documents:

- (1) A valid North Carolina drivers license or other identification card issued by the North Carolina Division of Motor Vehicles.
- (2) A current North Carolina rent or mortgage payment receipt, or current utility bill in the name of the applicant or the applicant's legal spouse showing a North Carolina address.
- (3) A valid North Carolina motor vehicle registration in the applicant's name and showing the applicant's current address.
- (4) A document showing that the applicant is employed in this State.



- (5) One or more documents proving that the applicant's domicile in the applicant's prior state of domicile has ended, such as closing of a bank account, termination of employment, or sale of a home.
- (6) The tax records of the applicant or the applicant's legal spouse, showing a current North Carolina address.
- (7) A document showing that the applicant has registered with a public or private employment service in this State.
- (8) A document showing that the applicant has enrolled the applicant's children in a public or private school or child care facility located in this State.
- (9) A document showing that the applicant is receiving public assistance or other services requiring proof of domicile, other than medical assistance, in this State.
- (10) Records from a health department or other health care provider located in this State showing the applicant's current North Carolina address.
- (11) A written declaration made under penalty of perjury from a person who has a social, family, or economic relationship with the applicant and who has personal knowledge of the applicant's intent to live in North Carolina permanently or for an indefinite period of time or that the applicant is residing in North Carolina to seek employment or with a job commitment.
- (12) Current North Carolina voter registration card.
- (13) A document from the U.S. Department of Veterans Affairs, U.S. Department of Defense, or the U.S. Department of Homeland Security verifying the applicant's intent to live in North Carolina permanently or for an indefinite period of time or that the applicant is residing in North Carolina to seek employment or with a job commitment.
- (14) Official North Carolina school records, signed by school officials, or diplomas issued by North Carolina schools, including secondary schools, community colleges, colleges, and universities verifying the applicant's intent to live in North Carolina permanently or for an indefinite period of time or that the applicant is residing in North Carolina to seek employment or with a job commitment.
- ~~(15) A document issued by the Mexican consular or other foreign consulate verifying the applicant's intent to live in North Carolina permanently or for an indefinite period of time or that the applicant is residing in North Carolina to seek employment or with a job commitment."~~

SECTION 15.(a) Article 6 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-145.5. Adoption of sanctuary ordinance prohibited.

(a) No county may have in effect any policy, ordinance, or procedure that limits or restricts the enforcement of federal immigration laws to less than the full extent permitted by federal law.

(b) No county shall do any of the following related to information regarding the citizenship or immigration status, lawful or unlawful, of any individual:

- (1) Prohibit law enforcement officials or agencies from gathering such information.
- (2) Direct law enforcement officials or agencies not to gather such information.
- (3) Prohibit the communication of such information to federal law enforcement agencies."

SECTION 15.(b) Article 8 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-499.4. Adoption of sanctuary ordinances prohibited.



1 (a) No city may have in effect any policy, ordinance, or procedure that limits or restricts
2 the enforcement of federal immigration laws to less than the full extent permitted by federal
3 law.

4 (b) No city shall do any of the following related to information regarding the citizenship
5 or immigration status, lawful or unlawful, of any individual:

6 (1) Prohibit law enforcement officials or agencies from gathering such
7 information.

8 (2) Direct law enforcement officials or agencies not to gather such information.

9 (3) Prohibit the communication of such information to federal law enforcement
10 agencies."

11 **SECTION 16.(a)** Article 2 of Chapter 108A of the General Statutes is amended by
12 adding a new section to read:

13 **"§ 108A-51.1 Prohibition on certain waivers.**

14 Except for waivers for the Disaster Supplemental Nutrition Assistance Program sought for
15 an area that has received a Presidential disaster declaration of Individual Assistance from the
16 Federal Emergency Management Agency, the Department shall not seek waivers to time limits
17 established by federal law for food and nutrition benefits for able-bodied adults without
18 dependents required to fulfill work requirements to qualify for those benefits."

19 **SECTION 16.(b)** The Department of Health and Human Services shall withdraw
20 any pending request for waivers to time limits established by federal law for food and nutrition
21 benefits for able-bodied adults without dependents required to fulfill work requirements to
22 qualify for those benefits submitted but not granted prior to the effective date of this section. If
23 a pending waiver request is granted prior to the effective date of this section, the Department
24 shall discontinue the waiver as of that effective date.

25 **SECTION 17.** Sections 1 through 14 of this act becomes effective October 1,
26 2015, and apply to contracts entered into on or after that date. Section 16 of this act becomes
27 effective October 1, 2015. The remainder of this bill is effective when it becomes law.





HOUSE BILL 318: Protect North Carolina Workers Act

2015-2016 General Assembly

Committee:	Rules and Operations of the Senate	Date:	September 23, 2015
Introduced by:	Reps. Cleveland, Millis, Whitmire, Conrad	Prepared by:	Kara McCraw
Analysis of:	PCS to Third Edition H318-CSTC-60		Committee Counsel

SUMMARY: *HB 318 would make various changes to the law related to verification of work authorization for certain employees, including:*

- *Requiring E-Verify compliance in certain governmental contracts.*
- *Providing that consulate or embassy documents may not be used to determine identification or residency for law enforcement purposes.*

The PCS for HB 318 would remove a section amending the law to increase the number of employers who are required to participate in the federal E-Verify Program, repealing the exemption for temporary employees, and excluding farm workers from the definition of employee under Article 2 of Chapter 64. The PCS would also add Sections 15 and 16, making the following changes:

- *Section 15 – Prohibiting counties and cities from adopting sanctuary ordinances.*
- *Section 16 – Prohibiting the Department of Health and Human Services from seeking certain work requirement waivers for food and nutrition benefits for able-bodied adults without dependents.*

CURRENT LAW: Under Article 2 of Chapter 64, employers of 25 or more employees are required to use the federal E-Verify system to verify that their employees are authorized to work in the United States. A copy of the e-verification must be maintained by the employer while the employee is employed and for one year thereafter. The Commissioner of Labor is authorized to conduct investigations and enforce the law. Failure to comply with the law can result in civil penalties. The Commissioner is also required to notify the US Immigration and Customs Enforcement agency if the Commissioner has reason to believe any unverified employee is an unauthorized alien.

The law also requires municipalities and counties to use the E-Verify program for all their new employees and for their contractors. S.L. 2014-119 amended the law prohibiting municipalities and counties from entering contracts unless the contractor complies with the State E-Verify requirement. The amendment limited the prohibition to contracts subject to the public contracting law.

BILL ANALYSIS:

Section 1(a) of the bill adds a new section to the Public Contracts law. The new provision prohibits any board or governing body of the State, any State institution, or any political subdivision of the State from entering a contract unless the contractor and any subcontractors comply with the State E-verify requirements. The government entities can satisfy this requirement by including in the contract a term requiring the contractor and any subcontractors to comply with the State E-verify requirements. The provision specifically exempts from its application contracts for travel expenses, solely for the purchase

O. Walker Reagan
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of goods, apparatus, supplies, materials, or equipment, contracts with other units of government, and so-called "piggy-back" contracts. These are contracts for purchases established by the State or federal government in which the contractor is willing to extend to a political subdivision the same or more favorable prices, terms, and conditions.

Sections 1(b) and (c) repeal the provisions prohibiting municipalities and counties from entering contracts unless the contractor complies with the State E-verify requirement since they are now covered by the new section.

Section 2 amends the Local Government Finance act with regard to penalties imposed on finance officers who give a false certificate to a contract or agreement. Under current law, the finance officer is liable for any funds illegally committed or disbursed. This section adds a provision that inclusion of a contract term requiring the contractor to comply with the State E-verify requirements is deemed compliance with the requirement.

Sections 3 through 9 make conforming changes to various sections of Article 2 of Chapter 64.

Section 10 adds a new section to Article 2 of Chapter 64 which establishes the consequences for violation of the new governmental contract E-verify requirement. The Commissioner of Labor is directed to notify any governmental entity found in violation of the statute and the Department of Labor must maintain a list of governmental entities so notified and publish the list on its website.

Section 11 adds a new Article 18 to Chapter 15A entitled "Identification Documents". This provision makes the use of certain documents unacceptable by any government official for purposes of determining a person's identity or residency. The documents are a matricula consular or other similar document other than a valid passport, and an identity document created by any person, organization, county, city, or other local authority except where expressly authorized by the General Assembly.

Sections 12, 13 and 14 make conforming changes to the motor vehicle law, the insurance law, and the medical assistance law to remove use of consular documents from the list of documents that can be used to verify State residency.

Section 15 would create new prohibitions on counties and cities, restricting any policy, ordinance, or procedure that would:

- Limit or restrict the enforcement of federal immigration laws to less than the full extent permitted by federal law.
- With regards to citizenship or immigration status information, lawful or unlawful, of any individual:
 - Prohibit law enforcement officials or agencies from gathering such information.
 - Direct law enforcement officials or agencies not to gather such information.
 - Prohibit the communication of such information to federal law enforcement agencies.

Section 16 – Federal law, 7 CFR 273.24, permits states to seek waivers to the 3 month limit on food and nutrition benefits for able-bodied adults without dependents who have not met federal work requirements (20 hours per week) in areas where the unemployment rate exceeds 10 percent or there is an insufficient number of jobs to provide employment for the individuals. The United States Department of Agriculture indicates that North Carolina has a statewide waiver that will expire at the end of the federal fiscal year, October 1, 2015.

Section 16 would prohibit the Department of Health and Human Services (DHHS) from seeking federal time limit waivers for food and nutrition benefits for able-bodied adults without dependents who have



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not met federal work requirements. DHHS would not be prohibited from seeking waivers for the Disaster Supplemental Nutrition Assistance Program in an area that has received a Presidential disaster declaration of Individual Assistance from the Federal Emergency Management Agency. DHHS would be required to withdraw any pending waiver requests prohibited by the new statute.

EFFECTIVE DATE: Sections 1-14 of this act becomes effective October 1, 2015, and apply to contracts entered into on or after that date. Section 15 becomes effective when it becomes law. Section 16 becomes effective October 1, 2015.

O. Walker Reagan, Director of the Research Division, and Karen Cochrane-Brown, Staff Attorney, substantially contributed to this summary.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

1

HOUSE BILL 488

Short Title: Central Carolina CC/Bd. of Trustees.

(Local)

Sponsors: Representatives Reives, Salmon, and Lewis (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Education - Community Colleges.

April 2, 2015

A BILL TO BE ENTITLED
AN ACT TO CLARIFY THE APPOINTMENTS TO THE BOARD OF TRUSTEES OF
CENTRAL CAROLINA COMMUNITY COLLEGE.

The General Assembly of North Carolina enacts:

SECTION 1. S.L. 2013-263 is repealed.

SECTION 2. G.S. 115D-12(a) reads as rewritten:

"(a) Each community college established or operated pursuant to this Chapter shall be governed by a board of trustees consisting of ~~13 members, or of additional members if selected according to the special procedure prescribed by the third paragraph of this subsection, 16~~ members who shall be selected by the following agencies. No member of the General Assembly may be appointed to a local board of trustees for a community college.

Group One – four trustees, ~~elected by the board of education of the public school administrative unit located in the administrative area of the institution. If there are two or more public school administrative units, whether city or county units, or both, located within the administrative area, the trustees shall be elected jointly by all of the boards of education of those units, each board having one vote in the election of each trustee, except as provided in G.S. 115D-59.~~ jointly by the local boards of education with the authority to nominate trustees as follows:

(1) The Chatham County Board of Education shall nominate one person to serve as trustee with a term commencing July 1, 2016, and quadrennially thereafter.

(2) The Harnett County Board of Education shall nominate one person to serve as trustee with a term commencing July 1, 2017, and quadrennially thereafter.

(3) The Lee County Board of Education shall nominate two persons to serve as trustees as follows:

a. The appointment of one trustee for a term commencing July 1, 2015, and quadrennially thereafter.

b. The appointment of one trustee for a term commencing July 1, 2018, and quadrennially thereafter.

(4) Approval of a nominee by at least one of the other two boards of education shall constitute selection of the trustee.

(5) If a nominee is not approved by at least one other board of education, the nominating board of education may nominate other persons until at least one other board of education approves the board of education's nominee.



No board of education shall elect a member of the board of education or any person employed by the board of education to serve as a trustee, however, any such person currently serving on a board of trustees shall be permitted to fulfill the unexpired portion of the trustee's current term.

Group Two – ~~four-eight~~ trustees, elected by the board of commissioners of the county in which the institution is located. ~~Provided, however, if the administrative area of the institution is composed of two or more counties, the trustees shall be elected jointly by the boards of commissioners of all those counties, each board having one vote in the election of each trustee. Provided, also, the county commissioners of the county in which the community college has established a satellite campus may elect an additional two members if the board of trustees of the community college agrees, as follows:~~

(1) Four members elected by the Lee County Commissioners as follows:

- a. The appointment of one trustee for a term commencing July 1, 2015, and quadrennially thereafter.
- b. The appointment of one trustee for a term commencing July 1, 2016, and quadrennially thereafter.
- c. The appointment of one trustee for a term commencing July 1, 2017, and quadrennially thereafter.
- d. The appointment of one trustee for a term commencing July 1, 2018, and quadrennially thereafter.

(2) Two members elected by the Chatham County Commissioners for terms commencing July 1, 2017, and quadrennially thereafter.

(3) Two members elected by the Harnett County Commissioners as follows:

- a. The appointment of one trustee for a term commencing July 1, 2016, and quadrennially thereafter.
- b. The appointment of one trustee for a term commencing July 1, 2017, and quadrennially thereafter.

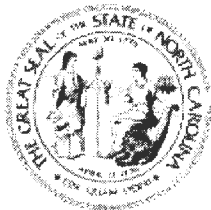
No more than one trustee from Group Two may be a member of a board of county ~~commissioners, commissioners of a given county.~~ Should the ~~boards of education or the boards~~ of commissioners involved be unable to agree on one or more trustees the senior resident superior court judge in the superior court district or set of districts as defined in G.S. 7A-41.1 where the institution is located shall fill the position or positions by appointment.

Group Three – four trustees, appointed by the Governor.

Group Four – the president of the student government or the chairman of the executive board of the student body of each community college established pursuant to this Chapter shall be an ex officio nonvoting member of the board of trustees of each said institution."

SECTION 3. This act applies only to Central Carolina Community College.

SECTION 4. This act is effective when it becomes law and applies to appointments to terms beginning on or after July 1, 2015.



This Bill Analysis
reflects the contents
of the bill as it was
presented in
committee.

HOUSE BILL 488: Central Carolina CC/Bd. of Trustees

2015-2016 General Assembly

Committee:	House Education - Community Colleges	Date:	April 28, 2015
Introduced by:	Reps. Reives, Salmon, Lewis	Prepared by:	Kara McCraw
Analysis of:	First Edition		Committee Counsel

SUMMARY: *HB 488 would establish procedures for appointment of members of the Board of Trustees of Central Carolina Community College.*

CURRENT LAW: G.S. 115D-12 establishes the local boards of trustees for community colleges. There are thirteen members on each board, including the president of the student body as an ex officio member. Of the remaining twelve members, they are appointed in groups of four respectively by the following entities:

- 1) The board(s) of education of the local school administrative unit(s) located in the administrative area of the institution. No board of education may elect a member of the board of education or any person employed by the board of education to serve as a trustee.
- 2) The board(s) of commissioners of the county or counties in the administrative area of the institution. No more than one trustee appointed by the board(s) of county commissioners may be a member of a board of county commissioners.
- 3) The Governor.

S.L. 2013-263 ended the terms of those individuals elected solely by the Lee County Board of Education to the Board of Trustees of Central Carolina Community College on August 1, 2013, and directed appointment of 4 members of the Central Carolina Community College Board of Trustees jointly elected to the Central Carolina Community College Board of Trustees by the Board of Education of Chatham County, the Board of Education of Lee County, and the Board of Education of Harnett County with each board having one vote in the election of each trustee.

BILL ANALYSIS: HB 488 would repeal S.L. 2013-263 and provide that 16 members be appointed to the Central Carolina Community College Board of Trustees, with changes to the appointments for Groups 1 and 2 as follows:

Group 1 – Local Board of Education Appointments

- Chatham County Board of Education – 1 person to a term beginning July 1, 2016, and quadrennially thereafter.
- Harnett County Board of Education – 1 person to a term beginning July 1, 2017, and quadrennially thereafter.
- Lee County Board of Education – 2 persons to terms beginning July 1 of 2015 and 2018, respectively, and quadrennially thereafter.

Approval by at least 1 of the other 2 boards of a nominee constitutes selection of the trustee. If a nominee is not approved by at least 1 other board, the nominating board may nominate other persons until another board approves the nominee.

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House Bill 488

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Group 2 – County Commissioners Appointments

- Chatham County Board of Education – 2 persons, both to a term beginning July 1, 2017, and quadrennially thereafter.
- Harnett County Board of Education – 2 persons to terms beginning July 1 of 2016 and 2017, respectively, and quadrennially thereafter.
- Lee County Board of Education – 4 persons to terms beginning July 1 of 2015, 2016, 2017, and 2018, respectively, and quadrennially thereafter.

No more than one trustee from Group Two may be a member of a board of county commissioners of a given county.

EFFECTIVE DATE: HB 488 would become effective when it becomes law and apply to appointments to terms beginning on or after July 1, 2015. HB 488 would only apply only to Central Carolina Community College.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

3

HOUSE BILL 924
Committee Substitute Favorable 4/29/15
Senate Judiciary I Committee Substitute Adopted 7/23/15

Short Title: Highway Safety/Salary Changes.

(Public)

Sponsors:

Referred to:

April 20, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY WHEN A LAW ENFORCEMENT OFFICER IS REQUIRED TO
3 REQUEST A BLOOD SAMPLE WHEN CHARGING THE OFFENSE OF
4 MISDEMEANOR DEATH BY VEHICLE, TO CLARIFY THE MEANING OF THE
5 TERM "SALARY" FOR CERTAIN STATE LAW ENFORCEMENT OFFICERS, TO
6 ALLOW CERTAIN EMPLOYEES TO BE SEPARATED FROM EMPLOYMENT DUE
7 TO UNAVAILABILITY, AND TO MAKE OTHER CLARIFYING CHANGES.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** G.S. 20-139.1(b5) reads as rewritten:

10 "(b5) Subsequent Tests Allowed. – A person may be requested, pursuant to G.S. 20-16.2,
11 to submit to a chemical analysis of the person's blood or other bodily fluid or substance in
12 addition to or in lieu of a chemical analysis of the breath, in the discretion of a law enforcement
13 officer; except that a person charged with a violation of G.S. 20-141.4 shall be ~~requested~~
14 requested, at any relevant time after the driving, to provide a blood sample in addition to or in
15 lieu of a chemical analysis of the breath. However, if a breath sample shows an alcohol
16 concentration of .08 or more, then requesting a blood sample shall be in the discretion of a law
17 enforcement officer. If a subsequent chemical analysis is requested pursuant to this subsection,
18 the person shall again be advised of the implied consent rights in accordance with
19 G.S. 20-16.2(a). A person's willful refusal to submit to a chemical analysis of the blood or other
20 bodily fluid or substance is a willful refusal under G.S. 20-16.2. If a person willfully refuses to
21 provide a blood sample under this subsection, and the person is charged with a violation of
22 G.S. 20-141.4, then a law enforcement officer with probable cause to believe that the offense
23 involved impaired driving or was an alcohol-related offense made subject to the procedures of
24 G.S. 20-16.2 shall seek a warrant to obtain a blood sample. The failure to obtain a blood sample
25 pursuant to this subsection shall not be grounds for the dismissal of a charge and is not an
26 appealable issue."

27 **SECTION 2.** G.S. 20-130.1 reads as rewritten:

28 **"§ 20-130.1. Use of red or blue lights on vehicles prohibited; exceptions.**

29 (a) It is unlawful for any person to install or activate or operate a red light in or on any
30 vehicle in this State. As used in this subsection, unless the context requires otherwise, "red
31 light" means an operable red light not sealed in the manufacturer's original package which: (i)
32 is designed for use by an emergency vehicle or is similar in appearance to a red light designed
33 for use by an emergency vehicle; and (ii) can be operated by use of the vehicle's battery,
34 vehicle's electrical system, or a dry cell battery. As used in this subsection, the term "red light"



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shall also mean any ~~forward-facing~~ red light installed on a vehicle after initial manufacture of the vehicle.

...
(c) It is unlawful for any person to possess a blue light or to install, activate, or operate a blue light in or on any vehicle in this State, except for a publicly owned vehicle used for law enforcement purposes or any other vehicle when used by law enforcement officers in the performance of their official duties. As used in this subsection, unless the context requires otherwise, "blue light" means any ~~forward-facing~~ blue light installed on a vehicle after initial manufacture of the vehicle; or an operable blue light which:

- (1) Is not (i) being installed on, held in inventory for the purpose of being installed on, or held in inventory for the purpose of sale for installation on a vehicle on which it may be lawfully operated or (ii) installed on a vehicle which is used solely for the purpose of demonstrating the blue light for sale to law enforcement personnel;
- (1a) Is designed for use by an emergency vehicle, or is similar in appearance to a blue light designed for use by an emergency vehicle; and
- (2) Can be operated by use of the vehicle's battery, the vehicle's electrical system, or a dry cell battery.

...."

SECTION 3. G.S. 143-166.14 reads as rewritten:

"§ 143-166.14. Payment of salary notwithstanding incapacity; Workers' Compensation Act applicable after two years; duration of payment.

The salary of any eligible person shall be paid as long as the person's employment in that position continues, notwithstanding the person's total or partial incapacity to perform any duties to which the person may be lawfully assigned, if that incapacity is the result of an injury or injuries ~~proximately caused by the heightened risk and special hazards directly related to the violent nature~~ resulting from or arising out of an episode of violence, resistance, or due to other special hazards which occur while of the eligible person's person is performing official duties, except if that incapacity continues for more than two years from its inception, the person shall, during the further continuance of that incapacity, be subject to the provisions of Chapter 97 of the General Statutes pertaining to workers' compensation. The time period for which an eligible person receives benefits pursuant to this section shall be deducted from the eligible person's total eligibility for benefits pursuant to G.S. 97-29 and G.S. 97-30. Salary paid to an eligible person pursuant to this Article shall cease upon the resumption of the person's regularly assigned duties, retirement, resignation, or death, whichever first occurs, or will cease or be equitably reduced when the employee has returned for work for the same or different employer, except that temporary return to duty shall not prohibit payment of salary for a subsequent period of incapacity which can be shown to be directly related to the original injury. For the purposes of this section, the term "salary" means the total base pay of a person as reflected on the person's salary statement and shall not include any overtime, shift premium, holiday pay, or other salary enhancements which the person may have earned prior to being injured."

SECTION 4. G.S. 143-166.15 reads as rewritten:

"§ 143-166.15. Application of § 97-27; how payments made.

Notwithstanding the provisions of G.S. 143-166.14 of this Article, the persons entitled to benefits shall be subject to the provisions of G.S. 97-27 during the two-year period of payment of ~~full salary-total base pay.~~ All payments ~~of salary~~ shall be made at the same time and in the same manner as other ~~salaries are paid~~ payments made to other persons in the same department."

SECTION 5. G.S. 143B-927 reads as rewritten:

"§ 143B-927. Personnel of the State Bureau of Investigation.

1 The Director of the State Bureau of Investigation may appoint a sufficient number of
2 assistants who shall be competent and qualified to do the work of the Bureau. The Director
3 shall be responsible for making all hiring and personnel decisions of the Bureau.
4 Notwithstanding the provisions of this Chapter, Chapter 143A, and Chapter 143B of the
5 General Statutes, the Director may hire or fire personnel and transfer personnel within the
6 Bureau. If the Director deems it appropriate to appoint reserve agents, those reserve agents
7 shall be considered employees of the State Bureau of Investigation for purposes of any workers'
8 compensation claim arising from acts occurring while the reserve agent is performing assigned
9 duties."

10 **SECTION 6.** G.S. 106-145.13 is repealed.

11 **SECTION 7.** G.S. 20-185 is amended by adding a new subsection to read:

12 "(j) The State Highway Patrol is authorized to appoint retired members as volunteer
13 reserve members to serve in the Highway Patrol Reserve Unit. Such members, while
14 performing duties assigned or approved by the commanding officer, shall be considered
15 employees of the Highway Patrol for purposes of any workers' compensation claim arising
16 from acts occurring while the retired member is performing assigned duties."

17 **SECTION 8.** G.S. 15A-298 reads as rewritten:

18 **"§ 15A-298. Subpoena authority.**

19 ~~Pursuant to rules issued by the State Bureau of Investigation, the~~ The Director of the State
20 Bureau of Investigation or the Director's designee may issue an administrative subpoena to a
21 communications common carrier or an electronic communications service to compel
22 production of business records if the records:

- 23 (1) Disclose information concerning local or long-distance toll records or
24 subscriber information; and
- 25 (2) Are material to an active criminal investigation being conducted by the State
26 Bureau of Investigation."

27 **SECTION 9.** G.S. 126-35 reads as rewritten:

28 **"§ 126-35. Just cause; disciplinary actions for State employees.**

29 (a) No career State employee subject to the North Carolina Human Resources Act shall
30 be discharged, suspended, or demoted for disciplinary reasons, except for just cause. In cases of
31 such disciplinary action, the employee shall, before the action is taken, be furnished with a
32 statement in writing setting forth the specific acts or omissions that are the reasons for the
33 disciplinary action and the employee's appeal rights. The employee shall be permitted 15 days
34 from the date the statement is delivered to appeal to the head of the agency through the agency
35 grievance procedure for a final agency decision. However, an employee may be suspended
36 without warning for causes relating to personal conduct detrimental to State service, pending
37 the giving of written reasons, in order to avoid undue disruption of work or to protect the safety
38 of persons or property or for other serious reasons. If the employee is not satisfied with the final
39 agency decision or is unable, within a reasonable period of time, to obtain a final agency
40 decision, the employee may appeal to the Office of Administrative Hearings. Such appeal shall
41 be filed not later than 30 days after receipt of notice of the final agency decision. The State
42 Human Resources Commission may adopt, subject to the approval of the Governor, rules that
43 define just cause.

44 (b) through (d) Repealed by Session Laws 2013-382, s. 6.1, effective August 21, 2013,
45 and applicable to grievances filed on or after that date.

46 (e) Nothing in this Chapter shall preclude an employee on workers' compensation or
47 salary continuation from being separated due to unavailability if the employee is unable to
48 return to his or her previous position at full duty, even if the employee has not exhausted his or
49 her vacation, sick, bonus, or compensatory leave.

50 (f) Nothing in this Chapter shall preclude the separation of an employee due to
51 unavailability if that employee is unable to perform all the duties of his or her position due to a

1 Court order, due to a loss of required credentials, or due to a loss of other required certification,
2 even if the employee has not exhausted his or her vacation, sick, bonus, or compensatory
3 leave."

4 **SECTION 10.** Sections 1 and 2 of this act become effective December 1, 2015,
5 and apply to offenses committed on or after that date. The remainder of this act is effective
6 when it becomes law and applies to offenses committed on or after that date. Prosecutions for
7 offenses committed before the effective date of this act are not abated or affected by this act,
8 and the statutes that would be applicable but for this act remain applicable to those
9 prosecutions.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

D

HOUSE BILL 924
Committee Substitute Favorable 4/29/15
Senate Judiciary I Committee Substitute Adopted 7/23/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H924-CSRW-48 [v.1]
9/22/2015 2:05:05 PM

Short Title: Highway Safety/Other Changes.

(Public)

Sponsors:

Referred to:

April 20, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY WHEN A LAW ENFORCEMENT OFFICER IS REQUIRED TO
3 REQUEST A BLOOD SAMPLE WHEN CHARGING THE OFFENSE OF
4 MISDEMEANOR DEATH BY VEHICLE; CLARIFY THE LAW GOVERNING
5 PROHIBITED USE OF RED AND BLUE LIGHTS; REPEAL CERTAIN MANDATORY
6 REPORTING REGARDING PSEUDOEPHEDRINE PRODUCTS; CLARIFY THE
7 SUBPOENA AUTHORITY OF THE DIRECTOR OF THE SBI; PROVIDE FOR UPSET
8 BIDS FOR LEASES OF MINERAL DEPOSITS ON STATE LANDS; AND INCREASE
9 THE COST LIMIT ON WORK THAT CAN BE PERFORMED BY GOVERNMENTAL
10 FORCE ACCOUNT LABOR.

11 The General Assembly of North Carolina enacts:

12 **SECTION 1.** G.S. 20-139.1(b5) reads as rewritten:

13 "(b5) Subsequent Tests Allowed. – A person may be requested, pursuant to G.S. 20-16.2,
14 to submit to a chemical analysis of the person's blood or other bodily fluid or substance in
15 addition to or in lieu of a chemical analysis of the breath, in the discretion of a law enforcement
16 officer; except that a person charged with a violation of G.S. 20-141.4 shall be ~~requested~~
17 requested, at any relevant time after the driving, to provide a blood sample in addition to or in
18 lieu of a chemical analysis of the breath. However, if a breath sample shows an alcohol
19 concentration of .08 or more, then requesting a blood sample shall be in the discretion of a law
20 enforcement officer. If a subsequent chemical analysis is requested pursuant to this subsection,
21 the person shall again be advised of the implied consent rights in accordance with
22 G.S. 20-16.2(a). A person's willful refusal to submit to a chemical analysis of the blood or other
23 bodily fluid or substance is a willful refusal under G.S. 20-16.2. If a person willfully refuses to
24 provide a blood sample under this subsection, and the person is charged with a violation of
25 G.S. 20-141.4, then a law enforcement officer with probable cause to believe that the offense
26 involved impaired driving or was an alcohol-related offense made subject to the procedures of
27 G.S. 20-16.2 shall seek a warrant to obtain a blood sample. The failure to obtain a blood sample
28 pursuant to this subsection shall not be grounds for the dismissal of a charge and is not an
29 appealable issue."

30 **SECTION 2.** G.S. 20-130.1 reads as rewritten:

31 **"§ 20-130.1. Use of red or blue lights on vehicles prohibited; exceptions.**

32 (a) It is unlawful for any person to install or activate or operate a red light in or on any
33 vehicle in this State. As used in this subsection, unless the context requires otherwise, "red
34 light" means an operable red light not sealed in the manufacturer's original package which: (i)





1 is designed for use by an emergency vehicle or is similar in appearance to a red light designed
2 for use by an emergency vehicle; and (ii) can be operated by use of the vehicle's battery,
3 vehicle's electrical system, or a dry cell battery. As used in this subsection, the term "red light"
4 shall also mean any ~~forward-facing~~ red light installed on a vehicle after initial manufacture of
5 the vehicle.

6 ...
7 (c) It is unlawful for any person to possess a blue light or to install, activate, or operate
8 a blue light in or on any vehicle in this State, except for a publicly owned vehicle used for law
9 enforcement purposes or any other vehicle when used by law enforcement officers in the
10 performance of their official duties. As used in this subsection, unless the context requires
11 otherwise, "blue light" means any ~~forward-facing~~ blue light installed on a vehicle after initial
12 manufacture of the vehicle; or an operable blue light which:

- 13 (1) Is not (i) being installed on, held in inventory for the purpose of being
14 installed on, or held in inventory for the purpose of sale for installation on a
15 vehicle on which it may be lawfully operated or (ii) installed on a vehicle
16 which is used solely for the purpose of demonstrating the blue light for sale
17 to law enforcement personnel;
18 (1a) Is designed for use by an emergency vehicle, or is similar in appearance to a
19 blue light designed for use by an emergency vehicle; and
20 (2) Can be operated by use of the vehicle's battery, the vehicle's electrical
21 system, or a dry cell battery.

22"

23 **SECTION 3.** G.S. 106-145.13 is repealed.

24 **SECTION 4.** G.S. 15A-298 reads as rewritten:

25 **"§ 15A-298. Subpoena authority.**

26 ~~Pursuant to rules issued by the State Bureau of Investigation, the~~ The Director of the State
27 Bureau of Investigation or the Director's designee may issue an administrative subpoena to a
28 communications common carrier or an electronic communications service to compel
29 production of business records if the records:

- 30 (1) Disclose information concerning local or long-distance toll records or
31 subscriber information; and
32 (2) Are material to an active criminal investigation being conducted by the State
33 Bureau of Investigation."

34 **SECTION 5.** G.S. 146-9 reads as rewritten:

35 **"§ 146-9. Disposition of mineral deposits in State lands not under water.**

36 (a) The Department of Administration may sell, lease, or otherwise dispose of mineral
37 rights or deposits in the vacant and unappropriated lands, swamplands, and lands acquired by
38 the State by virtue of being sold for taxes, not lying beneath the waters of the State, at such
39 times, upon such consideration, in such portions, and upon such terms as are deemed proper by
40 the Department and approved by the Governor and Council of State. Every instrument
41 conveying such rights shall be executed in the manner required of deeds by G.S. 146-74
42 through 146-78, and shall be approved by the Governor and Council of State as therein
43 provided, or by the agency designated by the Governor and Council of State to approve
44 conveyances of such rights. The net proceeds of dispositions of all such mineral rights or
45 deposits shall be paid into the State Literary Fund.

46 (b) Notwithstanding subsection (a) of this section, or any other provision of law, prior
47 to expiration of a lease of mineral deposits in State lands the Department of Administration or
48 other entity designated by the Department shall solicit competitive bids for lease of such
49 mineral deposits, which shall include a process for upset bids as described in this subsection.
50 An upset bid is an increased or raised bid whereby a person offers to lease such mineral rights
51 for an amount exceeding the highest bid received in response to the initial solicitation for



competitive bids, or the last upset bid, as applicable, by a minimum of five percent (5%). The process shall provide that the Department or other designated entity that issued the solicitation for competitive bids shall issue a notice of high bid to the person submitting the highest bid in response to the initial solicitation for competitive bids, or the person submitting the last upset bid, as applicable, and any other bidders that have submitted a bid in an amount seventy-five (75%) or more of the highest bid received in response to the initial solicitation for competitive bids, or the last upset bid, as applicable, of the highest bid received at that point within 10 days of the closure of the bidding period, as provided in the solicitation for competitive bids, through notice delivered by any means authorized under G.S. 1A-1, Rule 4. Thereafter, an upset bid may be made by delivering to the Department or other designated entity, subject to all of the following requirements and conditions:

- (1) With a deposit in cash, certified check, or cashier's check in an amount greater than or equal to five percent (5%) of the amount of the highest bid received in response to the initial solicitation for competitive bids, or the last upset bid, as applicable. The deposit required by this section shall be filed by the close of normal business hours on the tenth day after issuance of the Department or other designated entity's notice of high bid. If the tenth day falls upon a weekend or legal holiday, the deposit may be made and the notice of upset bid may be filed on the first business day following that day. There may be successive upset bids, each of which shall be followed by a period of 10 days for a further upset bid.
- (2) The Department or other designated entity may require an upset bidder to deposit a cash bond, or, in lieu thereof at the option of the bidder, a surety bond, approved by the Department or other designated entity. The compliance bond shall be in an amount the Department or other designated entity deems adequate, but in no case greater than the amount of the bid of the person being required to furnish the bond, less the amount of any required deposit. The compliance bond shall be payable to the State of North Carolina and shall be conditioned on the principal obligor's compliance with the bid.
- (3) At the time that an upset bid is submitted pursuant to this subsection, together with a compliance bond if one is required, the upset bidder shall file a notice of upset bid with the Department or other designated entity. The notice of upset bid shall include all of the following:
 - a. State the name, address, and telephone number of the upset bidder.
 - b. Specify the amount of the upset bid.
 - c. Provide that the lease shall remain open for a period of 10 days after the date on which the notice of upset bid is filed for the filing of additional upset bids as permitted by law.
 - d. Be signed by the upset bidder or the attorney or the agent of the upset bidder.
- (4) When an upset bid is made as provided in this subsection, the Department or other designated entity shall notify to the highest prior bidder, and any other bidders that have submitted a bid in an amount seventy-five (75%) or more of the current high bid received in response to the initial solicitation for competitive bids, or the last upset bid, as applicable.
- (5) When an upset bid is made as provided in this subsection, the last prior bidder is released from any further obligation on account of the bid, and any deposit or bond provided by the last prior bidder shall be released.



(6) Any person offering to lease of mineral deposits in State lands by upset bid as permitted in this subsection is subject to and bound by the terms of the original notice of lease.

(c) The Department of Administration shall require that any lessee of mineral deposits in State lands diligently conduct continuous mining operations for minerals subject to the lease throughout the entire term of the lease.

(d) The Department of Administration shall adopt rules to implement subsection (c) of this section."

SECTION 6. G.S. 143-135 reads as rewritten:

"§ 143-135. Limitation of application of Article.

Except for the provisions of G.S. 143-129 requiring bids for the purchase of apparatus, supplies, materials or equipment, this Article shall not apply to construction or repair work undertaken by the State or by subdivisions of the State of North Carolina (i) when the work is performed by duly elected officers or agents using force account qualified labor on the permanent payroll of the agency concerned and (ii) when either the total cost of the project, including without limitation all direct and indirect costs of labor, services, materials, supplies and equipment, does not exceed ~~one hundred twenty five thousand dollars (\$125,000)~~ five hundred thousand dollars (\$500,000) or the total cost of labor on the project does not exceed ~~fifty thousand dollars (\$50,000); two hundred thousand dollars (\$200,000);~~ provided that, for The University of North Carolina and its constituent institutions, force account qualified labor may be used (i) when the work is performed by duly elected officers or agents using force account qualified labor on the permanent payroll of the university and (ii) when either the total cost of the project, including, without limitation, all direct and indirect costs of labor, services, materials, supplies, and equipment, does not exceed two hundred thousand dollars (\$200,000) or the total cost of labor on the project does not exceed one hundred thousand dollars (\$100,000). This force account work shall be subject to the approval of the Director of the Budget in the case of State agencies, of the responsible commission, council, or board in the case of subdivisions of the State. Complete and accurate records of the entire cost of such work, including without limitation, all direct and indirect costs of labor, services, materials, supplies and equipment performed and furnished in the prosecution and completion thereof, shall be maintained by such agency, commission, council or board for the inspection by the general public. Construction or repair work undertaken pursuant to this section shall not be divided for the purposes of evading the provisions of this Article.

SECTION 7. Sections 1 and 2 of this act become effective December 1, 2015, and apply to offenses committed on or after that date. The remainder of this act is effective when it becomes law and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.





HOUSE BILL 924: Highway Safety/Salary Changes

2015-2016 General Assembly

Committee: Rules and Operations of the Senate
Introduced by: Reps. Burr, Hager, Goodman
Analysis of: PCS to Third Edition
H924-CSRW-48

Date: September 22, 2015
Prepared by: Giles S. Perry
Committee Counsel

SUMMARY: *The proposed committee substitute for House Bill 924 does the following:*

- *Clarifies when a law enforcement officer is required to request a blood sample when charging the offense of misdemeanor death by vehicle.*
- *Clarifies the law governing prohibited use of red and blue lights.*
- *Repeals certain mandatory reporting regarding pseudoephedrine products.*
- *Clarifies the subpoena authority of the director of the SBI.*
- *Provides for upset bids for leases of mineral deposits on State lands.*
- *Increases the cost limit on work that can be performed by governmental force account labor.*

CURRENT LAW & BILL ANALYSIS:

Section 1. Pursuant to G.S. 20-16.2, any person who drives a vehicle on a highway or public vehicular area thereby gives consent to a chemical analysis if charged with an offense involving impaired driving. A person charged with an impaired driving offense may be requested to submit to a chemical analysis of blood or other bodily fluid or substance in addition to or in lieu of a chemical analysis of the breath, in the discretion of a law enforcement officer. A person is *required* to provide a blood sample in addition to or in lieu of a chemical analysis of the breath when charged with felony or misdemeanor death by vehicle, felony serious injury by vehicle, aggravated felony death or serious injury by vehicle, or repeat felony death by vehicle. If a person charged with one of the aforementioned offenses refuses to provide a blood sample, a law enforcement officer with probable cause to believe the offense involved impaired driving must seek a warrant to obtain a blood sample. G.S. 20-139.1 requires that a physician, registered nurse, emergency medical technician, or other qualified person withdraw blood samples and obtain urine samples.

Section 1 clarifies that when a person is charged with felony or misdemeanor death by vehicle, felony serious injury by vehicle, aggravated felony death or serious injury by vehicle, or repeat felony death by vehicle and required to provide the blood sample, the sample is to be taken at any relevant time after the driving. Effective December 1, 2015.

Sections 2. Currently, G.S. 20-130.1 prohibits forward facing after installed red and blue lights on non-emergency vehicles. Section 2 removes "forward facing" to prohibit any red or blue light from being installed on a non-emergency vehicle after manufacture.

Section 3. Currently, every 30 calendar days, a wholesale distributor of pseudoephedrine products is to submit an electronic report to the SBI that accounts for all transactions involving pseudoephedrine products with persons or firms located within this State for the preceding month. The wholesale

O. Walker Reagan
Director



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House Bill 924

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distributor is to keep each monthly report for a period of two years from the date of submittal to the SBI. G.S. 106-145.13. Section 3 repeals the required reporting and maintenance of records.

Section 4 makes a clarifying change to the subpoena authority of the Director of the SBI.

Section 5 modifies a statute authorizing the Department of Administration to sell, lease, or otherwise dispose of mineral deposits in State lands not under water on such terms as the Department deems proper. Specifically the PCS would require that the Department solicit competitive bids for such leases, and implement a process for upset bids that would allow those persons who bid within 75% of a high bid to submit increased bids (with opportunities for successive upset bid periods). In addition, the PCS would direct the Department to require that any lessee of mineral deposits in State lands diligently conduct continuous mining operations for minerals subject to the lease throughout the entire term of the lease.

Section 6 increases the cost limit on work that can be performed by force account labor of the State or subdivisions of the State to projects with a total cost of up to \$500,000, or a total cost of labor up to \$200,000.

EFFECTIVE DATE: Sections 1 and 2 of this act become effective December 1, 2015, and apply to offenses committed on or after that date. The remainder of this act is effective when it becomes law and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

Susan Sitze and Jennifer McGinnis, Staff Attorneys in the Research Division, substantially contributed to this summary.





NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 924

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H924-ATH-64 [v.2]

Page 1 of 1

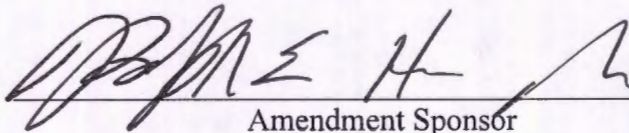
Amends Title [YES]
H924-CSRW-48

Date _____, 2015

Senator Hise

- 1 moves to amend the bill on page 1, line 8, by rewriting the line to read:
2 "BIDS FOR LEASES OF MINERAL DEPOSITS ON STATE LANDS; REPEAL THE
3 DONATE LIFE NC MATCHING FUNDS REQUIREMENT; AND INCREASE";
4
5 and on page 4, lines 33-34, by inserting the following between those lines:
6 "SECTION 6.5. Section 27.8 of Session Law 2015-241 is repealed."

SIGNED


Amendment Sponsor

SIGNED _____

Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED _____

TABLED _____



* H 9 2 4 - A T H - 6 4 - V - 2 *

2/1/20

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

1

HOUSE BILL 297

Short Title: DHHS Child Support Recommendations.-AB

(Public)

Sponsors: Representatives Burr and Stevens (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Judiciary III.

March 19, 2015

A BILL TO BE ENTITLED
AN ACT TO MAKE CHANGES TO THE ADMINISTRATION OF CHILD SUPPORT
SERVICES THAT WILL RESULT IN MORE EFFECTIVE AND EFFICIENT
COLLECTION AND PAYMENT OF CHILD SUPPORT TO FAMILIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 110-130.1(d) reads as rewritten:

"(d) Any fee imposed by the North Carolina Department of Revenue or the Secretary of the Treasury to cover their costs of withholding for non-Work First arrearages certified for the collection of past due support from State or federal income tax refunds or administrative offsets, as defined by 31 C.F.R. § 285.1(a), shall be borne by the client by deducting the fee from the amount collected.

Any income tax refund offset amounts or administrative offsets, as defined by 31 C.F.R. § 285.1(a), which are subsequently determined to have been incorrectly withheld and distributed to a client, and which must be refunded by the State to a responsible parent or the nondebtor spouse, shall constitute a debt to the State owed by the client."

SECTION 2. G.S. 110-136.4 reads as rewritten:

"§ 110-136.4. Implementation of withholding in IV-D cases.

(a) Withholding based on arrearages or obligor's request.

(1) Advance notice of withholding. When an obligor in a IV-D case becomes subject to income withholding, the obligee shall, after verifying the obligor's current employer or other payor, wages or other disposable income, and mailing address, serve the obligor with advance notice of withholding in accordance with G.S. 1A-1, Rule 4, Rules of Civil Procedure.

(2) Contents of advance notice. The advance notice to the obligor shall contain, at a minimum, the following information:

a. Whether the proposed withholding is based on the obligor's failure to make legally obligated child support, alimony or postseparation support payments on the obligor's request for withholding, on the obligee's request for withholding, or on the obligor's eligibility for withholding under G.S. 110-136.3(b)(3);

b. The amount of overdue child support, overdue alimony or postseparation support payments, the total amount to be withheld, and when the withholding will occur;

c. The name of each child or person for whose benefit the child support, alimony or postseparation support payments are due and information



- 1 sufficient to identify the court order under which the obligor has a
2 duty to support the child, spouse, or former spouse;
3 d. The amount and sources of disposable income;
4 e. That the withholding will apply to the obligor's wages or other
5 sources of disposable income from current payors and all subsequent
6 payors once the procedures under this section are invoked;
7 f. An explanation of the obligor's rights and responsibilities pursuant to
8 this section;
9 g. That withholding will be continued until terminated pursuant to
10 G.S. 110-136.10.

11 (3) Contested withholding. The obligor may contest the withholding only on the
12 basis of a mistake of fact, except that G.S. 110-129(10)(a) is not applicable if
13 withholding is based on the obligor's or obligee's request for withholding. To
14 contest the withholding, the obligor must, within 10 days of receipt of the
15 advance notice of withholding, request a hearing in the county where the
16 support order was entered before the district court and give notice to the
17 obligee specifying the mistake of fact upon which the hearing request is
18 based. If the asserted mistake of fact can be resolved by agreement between
19 the obligee and the obligor, no hearing shall occur. Otherwise, a hearing
20 shall be held and a determination made, within 30 days of the obligor's
21 receipt of the advance notice of withholding, as to whether the asserted
22 mistake of fact is valid. No withholding shall occur pending the hearing
23 decision. The failure to hold a hearing within 30 days shall not invalidate an
24 otherwise properly entered order. If it is determined that a mistake of fact
25 exists, no withholding shall occur. Otherwise, within 45 days of the obligor's
26 receipt of the advance notice of withholding, the obligee shall serve the
27 payor, pursuant to G.S. 1A-1, Rule 5, Rules of Civil Procedure, or by
28 electronic transmission in compliance with the Federal Office of Child
29 Support Enforcement (OCSE) electronic income withholding (e-IWO)
30 procedures, with notice of his obligation to withhold, and shall mail a copy
31 of such notice to the obligor and file a copy with the clerk. In the event of
32 appeal, withholding shall not be stayed. If the appeal is concluded in favor of
33 the obligor, the obligee shall promptly repay sums wrongfully withheld and
34 notify the payor to cease withholding.

35 (4) Uncontested withholding. If the obligor does not contest the withholding
36 within the 10-day response period, the obligee shall serve the payor,
37 pursuant to G.S. 1A-1, Rule 5, Rules of Civil Procedure, or by electronic
38 transmission in compliance with the Federal Office of Child Support
39 Enforcement (OCSE) electronic income withholding (e-IWO) procedures,
40 with notice of his obligation to withhold, and shall mail a copy of such
41 notice to the obligor and file a copy with the clerk.

42 (5) Payment not a defense to withholding. The payment of overdue support shall
43 not be a basis for terminating or not implementing withholding.

44 (6) Inability to implement withholding. When an obligor is subject to
45 withholding, but withholding under this section cannot be implemented
46 because the obligor's location is unknown, because the extent and source of
47 his disposable income cannot be determined, or for any other reason, the
48 obligee shall either request the clerk of superior court to initiate enforcement
49 proceedings under G.S. 15A-1344.1(d) or G.S. 50-13.9(d) or take other
50 appropriate available measures to enforce the support obligation.

(b) Immediate income withholding. When a new or modified child support order is entered, the district court judge shall, after hearing evidence regarding the obligor's disposable income, place the obligor under an order for immediate income withholding. The IV-D agency shall serve the payor pursuant to G.S. 1A-1, Rule 5, Rules of Civil Procedure, or by electronic transmission in compliance with the Federal Office of Child Support Enforcement (OCSE) electronic income withholding (e-IWO) procedures, with a notice of his obligation to withhold, and shall mail a copy of such notice to the obligor and file a copy with the clerk. If information is unavailable regarding an obligor's disposable income, or the obligor is unemployed, or an agreement is reached between both parties which provides for an alternative arrangement, immediate income withholding shall not apply. The obligor, however, is subject to income withholding pursuant to G.S. 110-136.4(a).

(c) Subsequent payors. If the obligor changes employment or source of disposable income, notice to subsequent payors of their obligation to withhold shall be served as required by G.S. 1A-1, Rule 5, Rules of Civil Procedure, ~~Procedure~~, or by electronic transmission in compliance with the Federal Office of Child Support Enforcement (OCSE) electronic income withholding (e-IWO) procedures. Copies of such notice shall be filed with the clerk of court and served upon the obligor by first class mail.

(d) Multiple withholdings. The obligor must notify the obligee if the obligor is currently subject to another withholding for child support. In the case of two or more withholdings against one obligor, the obligee or obligees shall attempt to resolve any conflict between the orders in a manner that is fair and equitable to all parties and within the limits specified by G.S. 110-136.6. If the conflict cannot be so resolved, an injured party, upon request, shall be granted a hearing in accordance with the procedure specified in G.S. 110-136.4(c). The conflict between the withholding orders shall be resolved in accordance with G.S. 110-136.7.

(e) Modification of withholding. When an order for withholding has been entered under this section, the obligee may modify the withholding based on changed circumstances. The obligee shall proceed as is provided in this section.

(f) Applicability of section. The provisions of this section apply to IV-D cases only."

SECTION 3. G.S. 110-139.2(b1) reads as rewritten:

"(b1) The Department of Health and Human Services Child Support Enforcement Agency may notify any financial institution doing business in this State that an obligor who maintains an identified account with the financial institution has a child support obligation that may be eligible for levy on the account in an amount that satisfies some or all of the amount of unpaid support owed. In order to be able to attach a lien on and levy an obligor's account, the amount of unpaid support owed shall be an amount not less than the amount of support owed for six months or one thousand dollars (\$1,000), whichever is less.

Upon certification of the amount of unpaid support owed in accordance with G.S. 44-86(c), the Child Support Agency shall serve or cause to be served upon the obligor, and when the matched account is owned jointly, any other nonliable owner of the account, and the financial institution a notice as provided by this subsection. The notice shall include the name of the obligor, the financial institution where the account is located, the account number of the account to be levied to satisfy the lien, the certified amount of unpaid support, information for the obligor or account owner on how to remove the lien or contest the lien in order to avoid the levy, and a ~~copy of reference to~~ the applicable law, G.S. 110-139.2. The notice shall be served on the obligor, and any nonliable account owner, in any manner provided in Rule 4 of the North Carolina Rules of Civil Procedure. The financial institution shall be served notice in accordance with Rule 5 of the North Carolina Rules of Civil Procedure. Upon service of the notice, the financial institution shall proceed in the following manner:

(1) Immediately attach a lien to the identified account.

1 (2) Notify the Child Support Agency of the balance of the account and date of
2 the lien or that the account does not meet the requirement for levy under this
3 subsection.

4 In order for an obligor or account owner to contest the lien, within 10 days after the obligor
5 or account owner is served with the notice, the obligor or account owner shall send written
6 notice of the basis of the contest to the Child Support Agency and shall request a hearing before
7 the district court in the county where the support order was entered. The obligor account holder
8 may contest the lien only on the basis that the amount owed is an amount less than the amount
9 of support owed for six months, or is less than one thousand dollars (\$1,000), whichever is less,
10 or the contesting party is not the person subject to the court order of support. The district court
11 may assess court costs against the nonprevailing party. If no response is received from the
12 obligor or account owner within 10 days of the service of the notice, the Child Support Agency
13 shall notify the financial institution to submit payment, up to the total amount of the child
14 support arrears, if available. This amount is to be applied to the debt of the obligor.

15 A financial institution shall not be liable to any person for complying in good faith with this
16 subsection. The remedy set forth in this section shall be in addition to all other remedies
17 available to the State for the reduction of the obligor's child support arrears. This remedy shall
18 not prevent the State from taking any and all other concurrent measures available by law.

19 This levy procedure is to be available for direct use by all states' child support programs to
20 financial institutions in this State without involvement of the Department."

21 **SECTION 4.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

D

HOUSE BILL 297
PROPOSED SENATE COMMITTEE SUBSTITUTE H297-CSTG-49 [v.12]

9/22/2015 4:40:05 PM

Short Title: End Marketing/Sale Unborn Children Body Parts.

(Public)

Sponsors:

Referred to:

March 19, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE INFORMED CONSENT FOR THE DONATION OF THE
3 REMAINS OF AN UNBORN CHILD; TO PROHIBIT THE SALE OF ANY ABORTED
4 OR MISCARRIED MATERIAL OR REMAINS OF AN UNBORN CHILD RESULTING
5 FROM AN ABORTION OR MISCARRIAGE; AND TO LIMIT THE USE OF STATE
6 FUNDS FOR CONTRACTS PERTAINING TO TEEN PREGNANCY PREVENTION
7 INITIATIVES AND PROJECTS.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. G.S. 130A-131.10 reads as rewritten:

10 "§ 130A-131.10. Manner of disposition of remains of pregnancies.

11 (a) The Commission for Public Health shall adopt rules to ensure that all facilities
12 authorized to terminate pregnancies, and all medical or research laboratories or facilities to
13 which the remains of terminated pregnancies are sent ~~by facilities authorized to terminate~~
14 ~~pregnancies~~, shall dispose of the remains in a manner limited to burial, cremation, or, except as
15 prohibited by subsection (b) of this section, approved hospital type of incineration.

16 (b) A hospital or other medical facility or a medical or research laboratory or facility
17 shall dispose of the remains of ~~a the recognizable fetus torso, head, organs or limbs of a human~~
18 unborn child only by burial or cremation. The Commission shall adopt rules to implement this
19 subsection.

20 ~~(c) A hospital or other medical facility is relieved from the obligation to dispose of the~~
21 ~~remains in accordance with subsections (a) and (b) of this section if it sends the remains to a~~
22 ~~medical or research laboratory or facility.~~

23 (d) This section does not impose liability on a permitted medical waste treatment
24 facility for a hospital's or other medical facility's violation of this section nor does it impose any
25 additional duty on the treatment facility to inspect waste received from the hospital or medical
26 facility to determine compliance with this section.

27 (e) Nothing in this section shall prevent the mother from donating the remains of her
28 unborn child after a spontaneous abortion or miscarriage to a research facility for research or
29 from acquiring the remains of the unborn child after a spontaneous abortion or miscarriage. The
30 mother's informed written consent to allow research to be conducted upon the remains of the
31 unborn child after a spontaneous abortion or miscarriage must be obtained prior to the donation
32 and must be separate from any other prior consent.

33 (f) Nothing in this section shall prevent the performance of autopsies performed
34 according to law, or any pathological examinations, chromosomal analyses, cultures, or any
35 other examinations deemed necessary by attending pathologists or treating physicians for
36 diagnostic purposes."



* H 2 9 7 - C S T G - 4 9 - V - 1 2 *



1 **SECTION 2.** Article 11 of Chapter 14 of the General Statutes is amended by
2 adding a new section to read:

3 **"§ 14-46.1. Prohibit sale of the remains of an unborn child resulting from an abortion or**
4 **miscarriage.**

5 (a) No person shall sell the remains of an unborn child resulting from an abortion or a
6 miscarriage, or any aborted or miscarried material.

7 (b) For purposes of this section, the term "sell" shall mean the transfer from one person
8 to another in exchange for any consideration whatsoever. The term shall not include payment
9 for incineration, burial, cremation, or any services performed pursuant to G.S. 130A-131.10(f).

10 (c) A person convicted of a violation of this section is guilty of a Class I felony."

11 **SECTION 3.** G.S. 130A-131.15A is amended by adding a new subsection to read:

12 "(h) The Department's use of State funds for initiatives and projects authorized under this
13 section shall not include the allocation of funds to renew or extend existing contracts or enter
14 into new contracts for the provision of family planning services, pregnancy prevention
15 activities, or adolescent parenting programs with any provider that performs abortions."

16 **SECTION 4.** This act becomes effective October 1, 2015, and Sections 1 and 2
17 apply to offenses committed on or after that date.





HOUSE BILL 297: End Marketing/Sale Unborn Children Body Parts.

2015-2016 General Assembly

Committee: Rules and Operations of the Senate
Introduced by: Reps. Burr, Stevens
Analysis of: PCS to First Edition
H297-CSTG-49

Date: September 22, 2015
Prepared by: Jan Paul
Staff Attorney

SUMMARY: *The Proposed Committee Substitute (PCS) for House Bill 297 would rewrite the bill in its entirety to prohibit the sale of the remains of an unborn child resulting from an abortion, or of any aborted material, and would prohibit the Department of Health and Human Services from allocating funds to support contracts between family planning services, pregnancy prevention activities, or adolescent parenting programs and abortion providers.*

CURRENT LAW:

State law does not prohibit the sale of the remains of an unborn child resulting from an abortion or of any aborted material. G.S. 130A-131.10 governs the manner of disposition of the remains of terminated pregnancies. It requires the Commission for Public Health to adopt rules to ensure that all facilities authorized to terminate pregnancies and all medical or research labs to which the remains of terminated pregnancies are transferred dispose of the remains by burial or cremation, or by an "approved hospital type of incineration," except for remains of a recognizable fetus, which may be disposed of only by burial or cremation.¹ The disposal requirements do not apply to remains sent by a hospital or other medical facility to a medical or research laboratory or facility.

Federal law prohibits the transfer of any human fetal tissue for "valuable consideration" if the transfer affects interstate commerce. 42 U.S.C. § 289g-2(a). A violation is punishable by imprisonment for up to 10 years and/or a fine in an amount not less than twice the amount of the valuable consideration received. By exceptions to its definition of "valuable consideration," federal law permits transfers involving only "reasonable payments associated with the transportation, implantation, processing, preservation, quality control, or storage of human fetal tissue." 42 U.S.C. § 289g-2(e)(3).

BILL ANALYSIS:

Section 1 of the PCS would amend G.S. 130A-131.10 to replace the words "a recognizable fetus" with "the recognizable torso, head, organs or limbs of a human unborn child" in subsection (b), which requires cremation or burial of such remains, and to repeal subsection (c), which exempts hospitals or other medical facilities that send the remains to a medical or research lab from the disposal requirements of this section. Section 1 also provides that nothing in G.S. 130A-131.10 prevents: (i) the mother from or from donating the remains of her unborn child to a research facility for research purposes or from acquiring the remains of her unborn child after a spontaneous abortion or miscarriage if the mother gives a specific, separate, informed written consent prior to the donation; or (ii) the performance of a lawful

¹ **15A NCAC 13B .1301.** All hospitals, other medical facilities or medical or research laboratories shall dispose of fetal remains by burial, cremation or incineration in accordance with 15A NCAC 13B .1200, except that burial or cremation shall be the only methods of disposal of recognizable fetuses. For purposes of this Rule, a recognizable fetus means a fetus that has developed beyond completion of the second trimester of gestation, consistent with G.S. 90-210.20(c1).

O. Walker Reagan
Director



Research Division
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House Bill 297

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autopsy or any other examination deemed necessary by attending pathologists or treating physicians for diagnostic purposes.

Section 2 of the PCS for House Bill 297 would make it a Class I felony for any person to sell the remains of an unborn child resulting from an abortion or a miscarriage, or any aborted or miscarried material. For purposes of this offense, the term "sell" would be defined as "the transfer from one person to another in exchange for any consideration whatsoever," but would not include payment for incineration, burial, cremation, or autopsies or other examinations authorized by G.S. 130A-131.10(f) (as amended by Section 1 of the PCS).

Section 3. Part 6 of Article 5 ("Child & Women's Health" of Chapter 130A ("Public Health") of the General Statutes governs Teen Pregnancy Prevention Initiatives administered by the Department of Health and Human Services (Department). Section 3 of the PCS would add a new provision to G.S. 130A-131.15A to prohibit the Department from using State funds to renew or extend existing contracts or enter into new contracts for the provision of family planning services, pregnancy prevention activities, or adolescent parenting programs with any provider that performs abortions.

EFFECTIVE DATE: This act becomes effective October 1, 2015, and Sections 1 and 2 apply to offenses committed on or after that date.

Bill Patterson, Staff Attorney, substantially contributed to this summary.





NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 297

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H297-ATJ-41 [v.1]

Page 1 of 1

Amends Title [NO]
H297-CSTG-49

Date _____, 2015

Senator Barefoot

1 moves to amend the bill on page 1, line 16 – 19, by rewriting the lines to read:
2

3 "(b) A hospital or other medical facility or a medical or research laboratory or facility
4 shall dispose of the remains of a recognizable fetus only by burial or cremation. The
5 Commission shall adopt rules to implement this subsection."
6
7

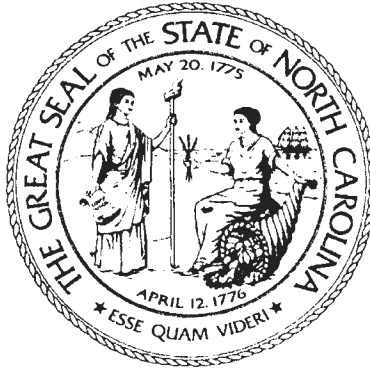
SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



* H 2 9 7 - A T J - 4 1 - V - 1 *



RULES AND OPERATIONS OF THE

SENATE

SEPTEMBER 23, 2015

SENATE SERGEANT-AT-ARMS

LARRY HANCOCK

GILES JEFFREYS

HAL ROACH

MATT URBEN



SENATE PAGES ATTENDING

COMMITTEE: Rules ROOM: 1027
DATE: 9-23 TIME: 2^{PM}

PLEASE PRINT LEGIBLY!!!!!!!!!!!!!!.....or else!

Page Name	Hometown	Sponsoring Senator
1. Kalei Pickett	Raleigh	Alexander
2. Emily Braren	& Sanford	Rabin
3. Thomas Barty	Chocowinity	Cook
4. Tristan Beard	Goldsporo	Pate
5. Aaron Presnell	Ashboro	Tillman
6. Max Forest	Ralegh	Soucek
7.		
8.		
9.		
10.		

Do not add names below the grid.

Pages: Present this form to either the Committee Clerk at the meeting or to the Sgt-at-Arms.



VISITOR REGISTRATION SHEET

(Committee Name)

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY</u>
Annaliese Dolph	BL
Kenj Burke	MWC
Sarah Wolfe	MWC
Dave Home	S.H.
Steve Morge	NCRLA
Patrick L. McVary	gov
Dave/Sher	R. L. & Assoc.
Todd Bulow	NCAJ
Nathan Batts	NCSA
JAKE PARKER	NCFB
Kara Weishaar	Smith Anderson
Chris Agnor	DOJ
Dance Fenton	City of Charlotte
Sarah Collins	NCLM
Michael Robinson	Robinson & Law
Jonathan Kappler	UNC GA
Greg Carter	UNCA
Mykel Cline	LB



VISITOR REGISTRATION SHEET

Senate Rules + Operations Comm

(Committee Name)

9-23-15

Date

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Camen Hourly	MULT
Dr. Moritz	UNC GA
Angel Sans	WCSD
Zane Stilwell	Shae
Danice Bean	Trouman Services
Amy Lee	RPSAT
Miller Nichols	Jordan Price
Jarret Burr	NC DPS
Christy Jones	New Frame LLC
Jeremy Bucher	Bailey and Dixon, LLP
JULIAN PHILPOT	NC FARM BUREAU
McTeague	NMIRS
FLINT BENSON	SEANC
Suzanne Beasley	SEANC
Sarah Preston	ACLU-NC
Melissa Reed	RDSAT

David Heinen

NC Center for Nonprofits

09-22-2012



VISITOR REGISTRATION SHEET

(Committee Name)

Date

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Laura DeVivo	WCSR
Doug Lassiter	NCSTA
Maya Shuping	NCCCS
Susanna Birdsong	NCIN
Jim Harrell	Bede Harrell
Kan Shuk	Franklin
Therese	TRW
Laura Anne	LAL
Lisa Martin	Cap-Ad
Rivan Newwald	WM
David McGowan	NCPC
Alex Miller	AMGA
Lindsay Smith	NCIC
David Ferrell	VB
Joe Boyle	NCPC
Dana Simpson	SA

Elizabeth Bier
Tom Hunsford

BP
NC STATE BAR

09-22-2012



VISITOR REGISTRATION SHEET

Senate Rules + Operations Comm.
(Committee Name)

9-23-15
Date

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<u>NAME</u>	<u>FIRM OR AGENCY</u>
Michelle Frazier	MFTS
John McMullen	MFTS
Susan Vick	Duke Energy
Kathy Hawkins	Duke Energy
Tracy Kimbrell	Parker Poe
Tom Jeter	FSP
Petronia Williams	Susan B. Anthony List / NC Values Coalition
Dale Carlson	Lee G. McMillan
Sarah Bales	Burbaker & Assoc.
Hayden Baugh	FSP
Sarah Kuvce	NC DOL
Jennifer Hargraves	NC DOL
Kim Louch	NCBA
Isabel Villar-Chin	NCAR
Chley L.	NC DOL
Gulyn Stawthorne	PENC, CISNE
Katherine Joyce	NCISA
David Johnson	NC State Bar

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MINUTES

Rules and Operations of the Senate

September 29, 2015

The Rules and Operations of the Senate committee met on September 29, 2015 at 10:00 a.m. The meeting was held in room 1027/1028 of the Legislative Building. Thirteen members of the committee were present. Senator Tom Apodaca presided.

Senator Apodaca introduced pages and Sergeant at Arms.

Senator Apodaca brought forth items on the agenda:


HB 558, "Reserve & Nat. Guard/Military Affairs Comm." Representative Whitmire presented the bill. Senator Brown moved for a favorable report. Motion carried.

HB 126, "Mortgage Origination Support Registration." Representative Hardister presented the bill. Senator McKissick moved for a favorable report. Motion carried.

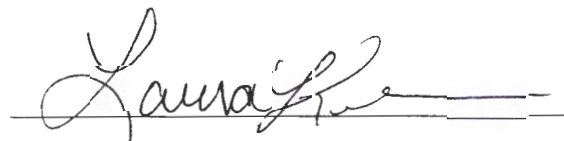
HB 647, "Epi Pens in All Child-Serving Businesses." Senator Jackson moved to bring the PCS before the committee. Motion carried. Representative McGrady presented the PCS. Senator Brock moved for an unfavorable report to the original bill, favorable to the PCS. Motion carried.

HB 735, "Reinstatement of Driving Privileges." Senator Jackson moved to bring the PCs before the committee. Motion carried. Senator Randleman presented the PCS. Senator Apodaca opened up the floor for questions. Jarrett Burr, NC Department of Public Safety, further explained section 1B of the PCS. Senator Brown moved for an unfavorable report to the original bill, favorable PCS.

Meeting adjourned at 10:18 a.m.



Senator Tom Apodaca, Presiding



Laura Kilian, Committee Assistant



**Senate Committee on Rules and Operations of the Senate
Tuesday, September 29, 2015, 10:00 AM
1027/1128 Legislative Building**

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 647	Epi Pens in All Child-Serving Businesses.	Representative McGrady Representative Avila Representative Stevens Representative Glazier
HB 216	Great Leaders for Great Schools/Study.	Representative Cotham Representative Horn Representative Brockman
HB 558	Reserve & Nat. Guard/Military Affairs Comm.	Representative Whitmire Representative G. Martin Representative Pendleton Representative Pittman
HB 735	Reinstatement of Driving Privileges.	Representative C. Graham Representative Pierce
HB 126	Mortgage Origination Support Registration.	Representative Hardister Representative Szoka Representative Meyer Representative Ross

Presentations

Other Business

Adjournment



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT
Senator Apodaca, Co-Chair**

Tuesday, September 29, 2015

Senator Apodaca,
submits the following with recommendations as to passage:

FAVORABLE

HB 126 (SCS#1)	Mortgage Origination Support Registration.
	Draft Number: None
	Sequential Referral: None
	Recommended Referral: None
	Long Title Amended: No
HB 558 (CS#1)	Reserve & Nat. Guard/Military Affairs Comm.
	Draft Number: None
	Sequential Referral: None
	Recommended Referral: None
	Long Title Amended: No

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO
SENATE COMMITTEE SUBSTITUTE BILL**

HB 647 (CS#1)	Epi Pens in All Child-Serving Businesses.
	Draft Number: H647-PCS10460-SH-62
	Sequential Referral: None
	Recommended Referral: None
	Long Title Amended: No

TOTAL REPORTED: 3

Senator Floyd McKissick will handle HB 126
Senator Harry Brown will handle HB 558
Senator Andrew Brock will handle HB 647



* C M R 5 9 6 - V - 1 *



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT
Senator Apodaca, Co-Chair**

Tuesday, September 29, 2015

Senator Apodaca,
submits the following with recommendations as to passage:

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2, BUT FAVORABLE AS TO
SENATE COMMITTEE SUBSTITUTE BILL**

HB 735 (CS#2)

Reinstatement of Driving Privileges.

Draft Number:	H735-PCS10461-SA-97
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Shirley Randleman will handle HB 735



* C M R 5 9 8 - V - 1 *



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

2

HOUSE BILL 558
Committee Substitute Favorable 4/16/15

Short Title: Reserve & Nat. Guard/Military Affairs Comm.

(Public)

Sponsors:

Referred to:

April 6, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO ENSURE REPRESENTATION ON THE NORTH CAROLINA MILITARY
3 AFFAIRS COMMISSION OF THE NORTH CAROLINA NATIONAL GUARD AND A
4 RESERVE COMPONENT OF THE UNITED STATES ARMED FORCES.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 127C-2(b)(1) reads as rewritten:

7 "§ 127C-2. Membership.

8 (a) The North Carolina Military Affairs Commission shall consist of ~~24~~23 voting
9 members who are appointed by the Governor, the Speaker of the House of Representatives, and
10 the President Pro Tempore of the Senate, nonvoting members, and nonvoting ex officio
11 members as designated in this section.

12 (b) The voting members of the Commission shall be appointed as follows:

13 (1) ~~Eleven~~Thirteen members appointed by the Governor, consisting of:

14 ...
15 g. One person who is a resident of North Carolina with a long-term
16 connection to the State and who is a current or retired member of the
17 North Carolina National Guard involved in a military affairs
18 organization or involved in military issues through civil, commercial,
19 or governmental relationships.

20 h. One person who is a resident of North Carolina with a long-term
21 connection to the State and who is a current or retired member of a
22 reserve component of the Air Force, Army, Navy, or Marines and
23 who is involved in a military affairs organization or involved in
24 military issues through civic, commercial, or governmental
25 relationships."

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



* H 5 5 8 - V - 2 *



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

2

HOUSE BILL 126
Senate Commerce Committee Substitute Adopted 7/16/15

Short Title: Mortgage Origination Support Registration.

(Public)

Sponsors:

Referred to:

March 3, 2015

A BILL TO BE ENTITLED
AN ACT TO AUTHORIZE THE OFFICE OF THE COMMISSIONER OF BANKS TO
IMPLEMENT A REGISTRATION SYSTEM FOR PERSONS ENGAGED
EXCLUSIVELY IN THE PROCESSING OR UNDERWRITING OF RESIDENTIAL
MORTGAGE LOANS AND NOT ENGAGED IN THE MORTGAGE BUSINESS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 19B of Chapter 53 of the General Statutes reads as rewritten:

"Article 19B.

"The Secure and Fair Enforcement Mortgage Licensing Act.

"§ 53-244.030. Definitions.

For purposes of the Article, the following definitions apply:

(20) "Mortgage lender" means a person engaged in the mortgage business as defined in sub-subdivision b. of subdivision (11) of this section. However, the definition does not include a person who acts as a mortgage lender only in a tablefunding transaction.

(20a) "Mortgage origination support registrant" or "registrant" means a person engaged exclusively in the processing or underwriting of residential mortgage loans and not engaged in the mortgage business.

"§ 53-244.040. License and registration requirements.

(c) Each mortgage loan originator and person engaged in the mortgage business must register with and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.

(c1) A registrant operating in this State must register with the Commissioner. Upon issuance of the registration, a registrant is authorized to sponsor and employ licensed mortgage loan originators or transitional mortgage loan originators to control and supervise the registrant's loan processors or underwriters in accordance with Title V of the Housing and Economic Recovery Act of 2008, P.L. 110-289, and 24 C.F.R. 3400. Nothing in this subsection shall be construed as authorizing a registrant to engage in the mortgage business.

(e) Each mortgage broker, mortgage lender, or mortgage servicer licensed under this Article, or registrant registered under this Article, shall have a qualifying individual who operates the business under that person's full charge, control, and supervision. Each mortgage



broker, mortgage lender, or mortgage servicer licensed under this ~~Article~~Article, or registrant registered under this Article, shall file through the Nationwide Mortgage Licensing System and Registry a form acceptable to the Commissioner indicating the licensee's designation of a qualifying individual and each qualifying individual's acceptance of the responsibility. Each mortgage broker, mortgage lender, or mortgage servicer licensed under this ~~Article~~Article, or registrant registered under this Article, shall notify the Commissioner within 15 days of any change in its designated qualifying individual. Any individual licensee who operates as a sole proprietorship shall qualify as and be considered the qualifying individual for the purposes of this subsection.

...
"§ 53-244.050. License and registration application; claim of exemption.

(a) Applicants for a license or registration shall apply through the Nationwide Mortgage Licensing System and Registry on a form acceptable to the Commissioner, including the following information:

...
(b) The eligibility requirements for an application for licensure or registration under this Article are as follows:

...
(2) Each applicant for licensure as a mortgage ~~broker or broker~~, mortgage ~~lender~~lender, or mortgage ~~servicer~~servicer, or registration as a registrant, at the time of application shall comply with the following requirements:

- a. If the applicant is a sole proprietor, the applicant shall have at least three years of experience in residential mortgage lending or other experience or meet competency requirements as the Commissioner may impose.
- b. If the applicant is a corporation, limited liability company, general or limited partnership, association, or other group engaged in a joint enterprise, however organized, at least one of its principal officers, managers, or general partners shall have three years of experience in residential mortgage lending or other experience or meet competency requirements as the Commissioner may impose.
- c. If the applicant will be a qualifying individual or branch manager, the applicant shall have at least three years of experience in residential mortgage lending or other experience or meet competency requirements as the Commissioner may impose.

...
(c) In connection with an application for licensing as a mortgage loan originator, transitional mortgage loan originator, mortgage lender, mortgage broker, or mortgage servicer, or registration as a registrant, the applicant and its owners, qualifying individual, and controlling persons shall furnish to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity, including:

- (1) Fingerprints for submission to the Federal Bureau of Investigation and any governmental agency or entity authorized to receive such information for a state, national, and international criminal history background check.
- (2) Personal history and experience in a form prescribed by the Nationwide Mortgage Licensing System and Registry and the Commissioner to obtain:
 - a. Independent credit reports obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act; and
 - b. Information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

(3) The personal history may be obtained by the Commissioner at any time and the fingerprint information shall be furnished upon the Commissioner's request.

(4) An authorization for the Commissioner to obtain personal history or fingerprint information at any time.

...

(f) For purposes of this section, the Commissioner may request and the North Carolina Department of Public Safety may provide a criminal record check to the Commissioner for any person who (i) has applied for or holds a mortgage lender, mortgage broker, mortgage servicer, mortgage loan originator, or transitional mortgage loan originator license as provided by this section, ~~section~~ or (ii) has applied for or holds a registration as a registrant under this section. The Commissioner shall provide the Department of Public Safety, along with the request, the fingerprints of the person, any additional information required by the Department of Public Safety, and a form signed by the person consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The person's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Department of Public Safety may charge a fee for each person for conducting the checks of criminal history records authorized by this section.

...

"§ 53-244.060. Issuance of ~~license~~ license or registration.

If an applicant satisfies the requirements of G.S. 53-244.050, the Commissioner shall issue a mortgage lender, mortgage broker, mortgage servicer, mortgage loan originator, or transitional mortgage loan originator ~~license~~ license, or a mortgage origination support registrant registration, unless the Commissioner finds any of the following:

(1) The applicant has had a mortgage loan originator or mortgage lender, mortgage broker, or mortgage servicer ~~license~~ license, or mortgage origination support registrant registration or its equivalent, revoked in any governmental jurisdiction, except that a subsequent formal vacation of the revocation shall not be deemed a revocation.

...

(4) The applicant has demonstrated a lack of financial responsibility, character, or general fitness such as to fail to command the confidence of the community and to warrant a determination that the mortgage loan originator, transitional mortgage loan originator, or other licensee or registrant will operate honestly, fairly, and efficiently within the purposes of this Article. For purposes of this subdivision, a person shows a lack of financial responsibility when the person has shown a disregard in the management of the person's own financial affairs. Evidence that a person has not shown financial responsibility may include:

- a. Current outstanding judgments, except judgments resulting solely from medical expenses;
- b. Current outstanding tax liens or other government liens and filings;
- c. Foreclosures within the past three years; or
- d. A pattern of serious delinquent accounts within the past three years.

...

"§ 53-244.090. License ~~application~~ Application fees.

(a) Every applicant for initial licensure shall pay a nonrefundable filing fee of one thousand two hundred fifty dollars (\$1,250) for licensure as a mortgage broker, mortgage lender, or mortgage servicer, three hundred dollars (\$300.00) for licensure as an exclusive

1 mortgage broker, or one hundred twenty-five dollars (\$125.00) for licensure as a mortgage loan
2 originator or transitional mortgage loan originator.

3 Every applicant for initial registration as a mortgage origination support registrant shall pay
4 a nonrefundable filing fee of (i) two hundred fifty dollars (\$250.00) for applicants who employ
5 or contract with fewer than a total of five individuals engaged solely as loan processors or
6 underwriters, (ii) one thousand dollars (\$1,000) for applicants who employ or contract with
7 between a total of five and 30 individuals engaged solely as loan processors or underwriters, or
8 (iii) two thousand dollars (\$2,000) for applicants who employ or contract with more than a total
9 of 30 individuals engaged solely as loan processors or underwriters.

10 In addition, ~~an~~every applicant for initial licensure or registration must pay the actual cost of
11 obtaining a credit report, State and national criminal history record checks, and the processing
12 fees required by the Nationwide Mortgage Licensing System and Registry.

13 ...

14 **"§ 53-244.100. Active license or registration requirements and assignability.**

15 (a) It is unlawful for any person to engage in the mortgage business without first
16 obtaining a license as a mortgage loan originator, transitional mortgage loan originator,
17 mortgage lender, mortgage broker, or mortgage servicer issued by the Commissioner under this
18 Article. It is unlawful for any person to employ, to compensate, or to appoint as its agent a
19 mortgage loan originator unless the person is a licensed mortgage loan originator or a
20 transitional mortgage loan originator under this Article. Persons defined in G.S. 53-244.030(8)
21 or G.S. 53-244.030(29) are not subject to this subsection.

22 (b) The license of a mortgage loan originator or transitional mortgage loan originator is
23 not effective during any period when that person is not employed by (i) a mortgage lender,
24 mortgage broker, or mortgage servicer licensed under this Article. ~~Article~~ or (ii) a mortgage
25 origination support registrant registered under this Article, but only for the purpose of
26 supervising and controlling loan processors or underwriters. When a mortgage loan originator
27 or transitional mortgage loan originator ceases to be employed by a mortgage lender, mortgage
28 broker, or mortgage servicer licensed under this ~~Article~~, Article, or a mortgage origination
29 support registrant registered under this Article, the mortgage loan originator or transitional
30 mortgage loan originator and the mortgage lender, mortgage broker, or mortgage servicer
31 licensed under this ~~Article~~, Article, or the mortgage origination support registrant registered
32 under this Article, by whom that person ~~is~~was employed shall promptly notify the
33 Commissioner in writing. The mortgage lender, mortgage broker, ~~or mortgage servicer~~servicer,
34 or mortgage origination support registrant shall include a statement of the specific reason for
35 the termination of the mortgage loan originator's or transitional mortgage loan originator's
36 employment. A mortgage loan originator or transitional mortgage loan originator shall not be
37 employed simultaneously by more than one mortgage lender, mortgage broker, ~~or mortgage~~
38 ~~servicer~~servicer, or mortgage support registrant licensed or registered under this Article.

39 (c) Each mortgage lender, mortgage broker, ~~and mortgage servicer~~servicer, and
40 mortgage origination support registrant licensed or registered under this Article shall maintain
41 on file with the Commissioner a list of all mortgage loan originators and transitional mortgage
42 loan originators who are employed with the mortgage lender, mortgage broker, ~~or mortgage~~
43 ~~servicer~~servicer, or mortgage origination support registrant.

44 (d) No person, other than an exempt person, shall hold himself or herself out as a
45 mortgage lender, a mortgage broker, a mortgage servicer, a mortgage loan originator, ~~or a~~
46 transitional mortgage loan ~~originator~~originator, or mortgage origination support registrant
47 unless the person is licensed or registered in accordance with this Article.

48 (e) Licenses and registrations issued under this Article are not assignable. Control of a
49 licensee or registrant shall not be acquired through a stock purchase, merger, or other device
50 without the prior written consent of the Commissioner. The Commissioner shall not give

1 written consent if the Commissioner finds that any of the grounds for denial, revocation, or
2 suspension of a license or registration are applicable to the acquiring person.

3 ...

4 **"§ 53-244.101. License and registration renewal.**

5 (a) All licenses and registrations issued by the Commissioner under the provisions of
6 this Article shall expire annually on the 31st day of December following issuance or on any
7 other date that the Commissioner may determine. The license is invalid after that date and shall
8 remain invalid unless renewed under subsection (b) of this section.

9 (b) A license or registration may be renewed on or after November 1 of each year by
10 complying with the requirements of subsection (c) of this section.

11 A mortgage loan originator shall pay a nonrefundable renewal fee of one hundred
12 twenty-five dollars (\$125.00) plus the actual cost of obtaining credit reports and State and
13 national criminal history record checks and processing fees for the Nationwide Mortgage
14 Licensing System and Registry as the Commissioner shall require.

15 A mortgage origination support registrant shall pay a nonrefundable renewal fee of (i) one
16 hundred twenty-five dollars (\$125.00) for registrants who employ or contract with fewer than a
17 total of five individuals engaged solely as loan processors or underwriters, (ii) five hundred
18 dollars (\$500.00) for registrants who employ or contract with between a total of five and 30
19 individuals engaged solely as loan processors or underwriters, or (iii) one thousand dollars
20 (\$1,000) for registrants who employ or contract with more than a total of 30 individuals
21 engaged solely as loan processors or underwriters. In addition to the nonrefundable renewal
22 fee, a mortgage support registrant shall pay the actual cost of obtaining credit reports and State
23 and national criminal history record checks and processing fees for the Nationwide Mortgage
24 Licensing System and Registry as the Commissioner shall require.

25 (c) Licensees may apply to renew a mortgage loan originator, mortgage lender,
26 mortgage broker, and mortgage servicer ~~license~~. license, and registrants may apply to renew a
27 mortgage origination support registrant registration. The application for renewal shall
28 demonstrate ~~that~~ that all of the following applicable requirements are met:

29 (1) The licensee or registrant continues to meet the initial minimum standards
30 for licensure or registration under ~~G.S. 53-244.060~~; G.S. 53-244.060.

31 (2) The mortgage loan originator has satisfied the annual continuing education
32 requirements described in ~~G.S. 53-244.102~~; and G.S. 53-244.102.

33 (3) The licensee or registrant has paid all required fees and assessments.

34 (d) If a mortgage lender, mortgage broker, or mortgage servicer's license is not renewed
35 prior to the expiration date, then the licensee shall pay two hundred fifty dollars (\$250.00) as a
36 nonrefundable late fee. If a mortgage loan originator's license is not renewed prior to the
37 expiration date, then the licensee shall pay a nonrefundable late fee of one hundred dollars
38 (\$100.00) in addition to the renewal fee set forth in subsection (b) of this section. In the event a
39 licensee fails to obtain a reinstatement of the license prior to March 1, the Commissioner shall
40 require the licensee to comply with the requirements for the initial issuance of a license under
41 the provisions of this Article.

42 (d1) If a mortgage origination support registrant registration is not renewed prior to the
43 expiration date, in addition to the renewal fees set forth in subsection (b) of this section, the
44 registrant shall pay a nonrefundable late fee of (i) sixty-two dollars and fifty cents (\$62.50) for
45 registrants who employ or contract with fewer than a total of five individuals engaged solely as
46 loan processors or underwriters, (ii) two hundred fifty dollars (\$250.00) for persons who
47 employ or contract with between a total of five and 30 individuals engaged solely as loan
48 processors or underwriters, or (iii) five hundred dollars (\$500.00) for persons who employ or
49 contract with more than a total of 30 individuals engaged solely as loan processors or
50 underwriters.

1 In the event a registrant fails to obtain a reinstatement of the registration prior to March 1,
2 the Commissioner shall require the registrant to comply with the requirements for the initial
3 issuance of a registration under the provisions of this Article.

4 (e) When required by the Commissioner, each person shall furnish to the Commissioner
5 the person's consent to a criminal history record check and a set of the person's fingerprints in a
6 form acceptable to the Commissioner or to the Nationwide Mortgage Licensing System and
7 Registry. Refusal to consent to a criminal history record check shall constitute grounds for the
8 Commissioner to deny renewal of the license of the person as well as the license of any other
9 person by whom the person is employed, over which the person has control, or as to which the
10 person is the current or proposed qualifying individual or current or proposed branch manager.

11 ...

12 **"§ 53-244.103. Surety bond requirements.**

13 (a) ~~Each~~ Except as provided in subsection (a1) of this section, each mortgage loan
14 originator or transitional mortgage loan originator shall be covered by a surety bond through
15 employment with a licensee in accordance with this section. The surety bond shall provide
16 coverage for each mortgage loan originator or transitional mortgage loan originator employed
17 by the licensee in an amount as prescribed by subsection (b) of this section and shall be in a
18 form prescribed by the Commissioner. The Commissioner may adopt rules with respect to the
19 requirements for the surety bonds as needed to accomplish the purposes of the Article.

20 (a1) The requirements of subsection (a) of this section shall not apply to a mortgage loan
21 originator or transitional mortgage loan originator employed only by a registrant for the sole
22 purpose of supervising and controlling loan processors or underwriters.

23 ...

24 **"§ 53-244.105. Records, addresses, escrow funds, or trust accounts.**

25 (a) Every licensee or registrant shall make and keep the accounts, correspondence,
26 memoranda, papers, books, and other records as prescribed in rules adopted by the
27 Commissioner. All records shall be preserved for three years unless the Commissioner, by rule,
28 prescribes otherwise for particular types of records.

29 (b) No person shall make any false statement or knowingly and willfully make any
30 omission of a material fact in connection with any information or reports filed with the
31 Commissioner, a governmental agency, or the Nationwide Mortgage Licensing System and
32 Registry or in connection with any oral or written communication with the Commissioner or
33 another governmental agency. If the information contained in any document filed with the
34 Commissioner or the Nationwide Mortgage Licensing System and Registry is or becomes
35 inaccurate or incomplete in any material respect, the ~~licensee~~ licensee, registrant, or exempt
36 entity shall within 30 days file a correcting amendment to the information contained in the
37 document.

38 (c) ~~Each mortgage broker licensee shall maintain and transact business from a principal~~
39 ~~place of business in this State.~~ The Commissioner may, by rule, impose terms and conditions
40 under which the records and files of a mortgage lender or lender, mortgage broker, mortgage
41 servicer servicer, or mortgage origination support registrant may be maintained outside of this
42 State. ~~Except for a mortgage origination support registrant, a principal place of business shall~~
43 ~~not be located at an individual's home or residence.~~ A mortgage lender, mortgage broker, or
44 mortgage servicer ~~licensee~~ licensee, or a mortgage origination support registrant, shall maintain
45 a record of the principal place of business with the Commissioner and report any change of
46 address of the principal place of business or any branch office within 15 days after the change.

47 (d) A licensee shall maintain in a segregated escrow fund or trust account any funds
48 which come into the licensee's possession but which are not the licensee's property and which
49 the licensee is not entitled to retain under the circumstances. The escrow fund or trust account
50 shall be held on deposit in a federally insured financial institution. Individual loan applicants' or
51 borrowers' accounts may be aggregated into a common trust fund so long as (i) interests in the

common fund can be individually tracked and accounted for and (ii) the common fund is kept separate from and is not commingled with the licensee's own funds.

...

"§ 53-244.108. Reports.

Each mortgage lender, mortgage ~~broker, or broker,~~ mortgage servicer ~~licensee~~ licensee, or mortgage origination support registrant shall submit to the Commissioner and to the Nationwide Mortgage Licensing System and Registry reports of condition and any other reports requested by the Commissioner pursuant to G.S. 53-244.115(d). The reports shall be in the form and shall contain any information that the Commissioner or Nationwide Mortgage Licensing System and Registry may require.

...

"§ 53-244.113. Regulatory authority.

(a) Unless otherwise provided, all actions, hearings, and procedures under this Article shall be governed by Article 3A of Chapter 150B of the General Statutes.

(b) For purposes of this Article, the Commissioner shall be deemed to have complied with the requirements of law concerning service of process upon mailing by certified mail any notice required or permitted to a licensee or registrant under this Article, postage prepaid and addressed to the last known address of the licensee or registrant on file with the Commissioner pursuant to G.S. 53-244.105(c).

(c) Upon the issuance of any summary order permitted under this Article, including summary suspensions and cease and desist orders, the Commissioner shall promptly notify the person subject to the order that the order has been entered and the reasons for the order. Within 20 days of receiving notice of the order, the person subject to the order may request in writing a hearing before the Commissioner. Upon receipt of such a request, the Commissioner shall calendar a hearing within 15 days. If a licensee or registrant does not request a hearing, the order will remain in effect unless it is modified or vacated by the Commissioner.

"§ 53-244.114. Licensure and registration authority.

(a) The Commissioner may, by order, deny, suspend, revoke, or refuse to issue or renew a license or registration of a ~~licensee~~ licensee, registrant, or applicant under this Article, or may restrict or limit the manner in which a licensee, registrant, applicant, or any person who owns an interest in or participates in the business of a licensee and engages in the mortgage business, business, or any person who owns an interest in or participates in the business of a registrant and engages in the business of a registrant, if the Commissioner finds both of the following:

- (1) That the order is in the public interest; and
- (2) That any of the following circumstances apply to the applicant, licensee, registrant, or any partner, member, manager, officer, director, loan originator, qualifying individual, or any person occupying a similar status or performing similar functions or any person directly or indirectly controlling the ~~applicant or licensee~~ applicant, licensee, or registrant. The person:
 - a. Has filed an application for ~~licensure~~ licensure or registration, report, or other document to the Commissioner that, as of its effective date or as of any date after filing, contained any statement that, in light of the circumstances under which it was made, is false or misleading with respect to any material ~~fact;~~ fact.
 - b. Has violated or failed to comply with any provision of this Article, rule adopted by the Commissioner, or order of the ~~Commissioner;~~ Commissioner.
 - c. Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the mortgage ~~business;~~ business.

- 1 d. Is the subject of an order of the Commissioner denying or suspending
2 that person's (i) license as a mortgage loan originator, transitional
3 mortgage loan originator, mortgage broker, mortgage lender, or
4 mortgage servicer;servicer or (ii) registration as a registrant or its
5 equivalent.
6 e. Is the subject of an order entered within the past five years by the
7 authority of any state or federal agency with jurisdiction over the
8 mortgage brokerage, mortgage lending, or mortgage servicing
9 industry;industry.
10 f. Fails at any time to meet the requirements of G.S. 53-244.060,
11 53-244.070, 53-244.080, 53-244.090, 53-244.100, 53-244.103, or
12 53-244.104;53-244.104.
13 g. Controls or has controlled any mortgage broker, mortgage lender, ~~or~~
14 mortgage ~~servicer~~servicer, or registrant or its equivalent who has
15 been subject to an order or injunction described in sub-subdivision c.,
16 d., or e. of this ~~subdivision~~subdivision.
17 h. Has been the qualifying individual, branch manager, mortgage loan
18 originator, or transitional mortgage loan originator of a licensee or
19 registrant who had knowledge of or reasonably should have had
20 knowledge of, or participated in, any activity that resulted in the
21 entry of an order under this Article suspending or withdrawing the
22 license of a ~~licensee~~licensee or registration of a registrant.
23 i. Has failed to respond to inquiries from the Commissioner or the
24 Commissioner's designee regarding any complaints filed against the
25 licensee or registrant which allege or appear to involve violation of
26 this Article or any law or rule affecting the mortgage lending
27 ~~business; orbusiness.~~
28 j. Has failed to respond to and cooperate fully with notices from the
29 Commissioner or the Commissioner's designee relating to the
30 scheduling and conducting of an examination or investigation under
31 this Article.

32 (b) In the event the Commissioner has reason to believe that a licensee, registrant,
33 individual, or person subject to this Article may have violated or failed to comply with any
34 provision of this Article, the Commissioner ~~may~~may take either of the following actions:

- 35 (1) Summarily order the licensee, registrant, individual, or person to cease and
36 desist from any harmful activities or violations of this ~~Article; orArticle.~~
37 (2) Summarily suspend the (i) license of the licensee under this Article;Article
38 or (ii) the registration of a registrant under this Article.

39 These summary powers are in addition to the summary suspension procedures authorized
40 by G.S. 150B-3(c).

41 **"§ 53-244.115. Investigation and examination authority.**

42 (a) For purposes of initial ~~licensing~~licensing or registration, renewal,
43 suspension, conditioning, revocation, or termination, or general or specific inquiry,
44 investigation, or examination to determine compliance with this Article, the Commissioner may
45 access, receive, and use any books, accounts, records, files, documents, information, or
46 evidence, ~~including~~including all of the following:

- 47 (1) Criminal, civil, and administrative history information, including
48 nonconviction ~~data~~data.
49 (2) Personal history and experience information, including independent credit
50 reports obtained from a consumer reporting agency described in section
51 603(p) of the Fair Credit Reporting Act; ~~andAct.~~

(3) Any other documents, information, or evidence the Commissioner deems relevant to the inquiry, investigation, or examination regardless of the location, possession, control, or custody of the documents, information, or evidence.

(b) For purposes of investigating violations or complaints arising under this Article, or for the purposes of examination, the Commissioner may review, investigate, or examine any licensee, registrant, individual, or person subject to this Article as often as necessary in order to carry out the purposes of this Article. The Commissioner may interview the officer, principals, person with control, qualified individual, mortgage loan originators, transitional mortgage loan originators, employees, independent contractors, agents, and customers of the licensee, registrant, individual, or person concerning their business. The Commissioner may direct, subpoena, or order the attendance of and examine under oath all persons whose testimony may be required about the loans or the business or subject matter of any examination or investigation and may direct, subpoena, or order the person to produce books, accounts, records, files, and any other documents the Commissioner deems relevant to the inquiry. The assessment set forth in G.S. 53-244.100A is for the purpose of meeting the cost of regulation under this Article. Any investigation or examination that, in the opinion of the Commissioner of Banks, requires extraordinary review, investigation, or special examination shall be subject to the actual costs of additional expenses and the hourly rate for the staff's time, to be determined annually by the Banking Commission.

(c) Each licensee, registrant, individual, or person subject to this Article shall make available to the Commissioner upon request the books and records relating to the operations of the licensee, registrant, individual, or person. No licensee, registrant, individual, or person subject to investigation or examination under this section may knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information. Each licensee, registrant, individual, or person subject to this Article shall also make available for interview by the Commissioner the officers, principals, persons with control, qualified individuals, mortgage loan originators, transitional mortgage loan originators, employees, independent contractors, agents, and customers of the licensee, registrant, individual, or person concerning their business.

(d) Each licensee, registrant, individual, or person subject to this Article shall make or compile such reports or prepare other information as may be directed or requested by the Commissioner in order to carry out the purposes of this section, ~~including:~~including any of the following:

- (1) Accounting ~~compilations;~~compilations.
- (2) Information lists and data concerning loan transactions in a format prescribed by the ~~Commissioner;~~Commissioner.
- (3) Periodic reports, ~~including:~~including any of the following:
 - a. Annual Report ~~Questionnaire;~~Questionnaire.
 - b. Servicer Activity ~~Report;~~Report.
 - c. Servicer Schedule of the Ranges of Costs and ~~Fees;~~Fees.
 - d. Lender/Servicer Audited Statements of Financial ~~Condition;~~Condition.
 - e. Broker Certified Statements of Financial ~~Condition, and~~Condition.
 - f. Quarterly Loan Origination Reports.
- (4) Any other information deemed necessary to carry out the purposes of this section.

(e) In making any examination or investigation authorized by this Article, the Commissioner may control access to any documents and records of the ~~licensee~~licensee, registrant, or person under examination or investigation. The Commissioner may take possession of the documents and records or place a person in exclusive charge of the

documents and records in the place where they are usually kept. During the period of control, no individual or person shall remove or attempt to remove any of the documents and records except pursuant to a court order or with the consent of the Commissioner. Unless the Commissioner has reasonable grounds to believe the documents or records of the licensee or registrant have been or are at risk of being altered or destroyed for purposes of concealing a violation of this Article, the ~~licensee~~ licensee, registrant, or owner of the documents and records shall have access to the documents or records as necessary to conduct its ordinary business.

(f) In order to carry out the purposes of this section, the Commissioner ~~may~~ may do any of the following:

- (1) Retain attorneys, accountants, or other professionals and specialists as examiners, auditors, or investigators to conduct or assist in the conduct of examinations or ~~investigations~~ investigations.
- (2) Enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, documents, records, information, or evidence obtained under this ~~section~~ section.
- (3) Use, hire, contract, or employ public or privately available analytical systems, methods, or software to examine or investigate the licensee, individual, or person subject to this ~~Article~~ Article.
- (4) Accept and rely on examination or investigation reports made by other government officials, within or without this ~~State~~ or State.
- (5) Accept audit reports made by an independent certified public accountant for the licensee, registrant, individual, or person in the course of that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of the examination, report of investigation, or other writing of the Commissioner.

(g) In addition to the authority granted by G.S. 53-244.113 and G.S. 53-244.115, the Commissioner is authorized to take action, including summary suspension of the ~~license~~ license or registration, if the licensee or registrant fails, within 20 days or a lesser time if specifically requested for good cause, ~~to~~ to do any of the following:

- (1) Respond to inquiries from the Commissioner or the Commissioner's designee regarding any complaints filed against the licensee or registrant that allege or appear to involve violation of this Article or any law or rule affecting the mortgage lending ~~business~~ business.
- (2) Respond to and cooperate fully with notices from the Commissioner or the Commissioner's designee relating to the scheduling and conducting of an examination or investigation under this ~~Article~~ or Article.
- (3) Consent to a criminal history record check. The refusal shall constitute grounds for the Commissioner to deny licensure to the applicant as well as to any ~~entity~~ entity that meets any of the following criteria:
 - a. By whom or by which the applicant is ~~employed~~ employed.
 - b. Over which the applicant has ~~control~~ or control.
 - c. As to which the applicant is the current or proposed qualifying individual or a current or proposed branch manager.

(h) The authority of this section shall remain in effect, whether a licensee, registrant, individual, or person subject to this Article acts or claims to act under any licensing or registration law of the State, or claims to act without such authority.

"§ 53-244.116. Disciplinary authority.

(a) The Commissioner may, by order:

- (1) Take any action authorized under G.S. 53-244.113.

- (2) Impose a civil penalty upon a licensee, registrant, individual, or person subject to this Article, or upon any partner, officer, director, or other person occupying a similar status or performing similar functions on behalf of a ~~licensee~~licensee, registrant, or other person subject to this Article for any violation of or failure to comply with this Article. The civil penalty shall not exceed twenty-five thousand dollars (\$25,000) for each violation of or failure to comply with this Article. Each violation of or failure to comply with this Article shall be a separate and distinct violation.
- (3) Impose a civil penalty upon a licensee, registrant, individual, or person subject to this Article, or upon any partner, officer, director, or other person occupying a similar status or performing similar functions on behalf of a ~~licensee~~licensee, registrant, or other person subject to this Article for any violation of or failure to comply with any directive or order of the Commissioner. The civil penalty shall not exceed twenty-five thousand dollars (\$25,000) for each violation of or failure to comply with any directive or order of the Commissioner. Each violation of or failure to comply with any directive or order of the Commissioner shall be a separate and distinct violation.
- (4) Require a licensee, registrant, individual, or person subject to this Article to disgorge and pay to a borrower or other individual any amounts received by the licensee, registrant, individual, or person subject to the Article, including any employee of the person, to the extent that the amounts were collected in violation of Chapter 24 of the General Statutes or in excess of those allowed by law.
- (5) Prohibit licensees or registrants under this Article from engaging in acts and practices in connection with residential mortgage loans that the Commissioner finds to be unfair, deceptive, designed to evade the laws of this State, or that are not in the best interest of the borrowing public.

(b) When a licensee or registrant is accused of any act, omission, or misconduct that would subject the licensee or registrant to disciplinary action, the ~~licensee~~licensee or registrant, with the consent and approval of the Commissioner, may surrender the license or registration and all the rights and privileges pertaining to it. A person who surrenders a license shall not be eligible for or submit any application for licensure under this Article during any period specified by the ~~Commissioner~~Commissioner, and a person who surrenders a registration shall not be eligible for or submit any application for registration under this Article during any period specified by the Commissioner.

(c) The requirements of this Article apply to any person who seeks to avoid its application by any device, subterfuge, or pretense whatsoever, including structuring a loan in a manner to avoid classification of the loan as a residential mortgage loan.

...

"§ 53-244.118. Rule-making authority; records.

(a) The Commissioner may adopt any rules that the Commissioner deems necessary to carry out the provisions of this Article, to provide for the protection of the borrowing public, to prohibit unfair or deceptive practices, to instruct mortgage lenders, mortgage brokers, mortgage servicers, mortgage loan originators, ~~or transitional mortgage loan originators~~originators, or registrants in interpreting this Article, and to implement and interpret the provisions of G.S. 24-1.1E, 24-1.1F, and 24-10.2 as they apply to licensees and registrants under this Article.

(b) The Commissioner shall keep a list of all applicants for licensure or registration under this Article or claimants of exempt status under G.S. 53-244.050(g) that includes the date of application, name, place of residence, and whether the ~~license~~license, registration, or claim of exempt status was granted or denied.

(c) The Commissioner shall keep a current roster showing the names and places of business of all licensees and registrants that shows their respective mortgage loan originators and transitional mortgage loan originators and a roster of exempt persons required to file a notice under G.S. 53-244.050(g). The roster ~~shall~~ shall meet all of the following requirements:

(1) Be kept on file in the office of the ~~Commissioner~~ Commissioner.

(2) Contain information regarding all orders or other actions taken against the ~~licensees~~ licensees, registrants, and other persons; and persons.

(3) Be open to public inspection.

"§ 53-244.119. Commissioner's participation in nationwide registry.

(a) The Commissioner shall require mortgage loan originators and transitional mortgage loan originators to be licensed and registered through the Nationwide Mortgage Licensing System and Registry. In order to carry out this requirement, the Commissioner is authorized to participate in the Nationwide Mortgage Licensing System and Registry. For this purpose, the Commissioner may establish by rule any requirements as necessary, including:

(1) Background checks for:

a. Criminal history through fingerprint or other databases;

b. Civil or administrative records;

c. Credit history; or

d. Any other information as deemed necessary by the Nationwide Mortgage Licensing System and Registry.

(2) The payment of fees to apply for, renew, or amend licenses through the Nationwide Mortgage Licensing System and Registry;

(3) The setting or resetting as necessary of renewal or reporting dates; and

(4) Requirements for amending or surrendering a license or any other activities as the Commissioner deems necessary for participation in the Nationwide Mortgage Licensing System and Registry.

(b) The Commissioner is authorized to establish relationships or contracts with the Nationwide Mortgage Licensing System and Registry or other entities designated by the Nationwide Mortgage Licensing System and Registry to collect and maintain records and process transaction fees or other fees related to ~~licensees~~ licensees, registrants, or other persons subject to this Article.

"§ 53-244.120. Confidentiality of information.

(e) The confidentiality provisions contained in subsection (c) of this section shall not apply with respect to the information or material relating to the employment history of and publicly adjudicated disciplinary and enforcement actions against mortgage lenders, mortgage brokers, mortgage servicers, mortgage loan originators, ~~or~~ transitional mortgage loan originators ~~originators, or registrants~~ that are included in the Nationwide Mortgage Licensing System and Registry for access by the public.

...."

SECTION 2. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. Any provision of this act deemed by Housing and Urban Development (HUD) to conflict with its interpretation of Title V of the Secure and Fair Enforcement for Mortgage Licensing Act (S.A.F.E. Act) shall be interpreted, applied, or amended in such a way as to comply with the S.A.F.E. Act as interpreted by HUD.

SECTION 3. The Commissioner of Banks may adopt temporary rules to administer this act.

1 **SECTION 4.** Section 3 of this act is effective when this act becomes law. The
2 remainder of this act becomes effective October 1, 2015, and applies to all applications for
3 registration as a mortgage origination support registrant filed on or after that date.

Existing Lender/Broker License versus Proposed Mortgage Registration

Lender or Broker Licensee
(company)

Active MLO licensee
(individual is sponsored by
lender/broker)

Underwriters or
Processors (need
to be supervised by
an MLO)

Mortgage Origination
Support Registrant
(company)

Active MLO licensee (individual
is sponsored by registrant)

Underwriters or
Processors (need
to be supervised
by an MLO)



What's the difference? It comes down to cost.

Mortgage Lender/Broker Licensee

Initial application fee for lender/broker	\$1250
Annual assessment	Based on loan volume w/minimum of \$2000
No renewal application fee	
Late renewal fee	\$250
Net worth requirement	\$100,000 minimum for lenders \$25,000 for brokers
Surety bond requirement	Based on loan volume w/minimum of \$75,000 for broker and \$150,000 for lender

Mortgage Origination Support Registrant

Initial application fee for origination support registrant	< 5 registrants	\$250
	5-30 registrants	\$1000
	> 30 registrants	\$2000
No annual assessment		
Renewal application fee	< 5 registrants	\$125
	5-30 registrants	\$500
	> 30 registrants	\$1000
Late renewal fee	< 5 registrants	\$62.50
	5-30 registrants	\$250
	> 30 registrants	\$500
No net worth requirement		
No surety bond requirement		



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

2

HOUSE BILL 647
Committee Substitute Favorable 4/20/15

Short Title: Epi Pens in All Child-Serving Businesses.

(Public)

Sponsors:

Referred to:

April 14, 2015

A BILL TO BE ENTITLED
AN ACT AUTHORIZING HEALTH CARE PROVIDERS TO PRESCRIBE, AND
PHARMACISTS TO DISPENSE, EPINEPHRINE AUTO-INJECTORS TO
AUTHORIZED CHILD-SERVING ENTITIES OTHER THAN SCHOOLS FOR THE
EMERGENCY TREATMENT OF ANAPHYLAXIS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1B of Chapter 90 of the General Statutes is amended by
adding a new section to read:

"§ 90-21.15A. Emergency treatment using epinephrine auto-injector; immunity.

(a) Definitions. – The following definitions apply in this section:

- (1) Administer. – The direct application of an epinephrine auto-injector to the body of an individual.
- (2) Authorized entity. – Any entity or organization, other than a school described in G.S. 115C-375.2A, at which allergens capable of causing anaphylaxis may be present, including, but not limited to, recreation camps, colleges, universities, day care facilities, youth sports leagues, amusement parks, restaurants, places of employment, and sports arenas.
- (3) Epinephrine auto-injector. – A single-use device used for the automatic injection of a premeasured dose of epinephrine into the human body.
- (4) Health care provider. – A health care provider licensed to prescribe drugs under the laws of this State.
- (5) Provide. – To supply one or more epinephrine auto-injectors to an individual.

(b) Prescribing to Authorized Entities Permitted. – A health care provider may prescribe epinephrine auto-injectors in the name of an authorized entity for use in accordance with this section, and pharmacists and health care providers may dispense epinephrine auto-injectors pursuant to a prescription issued in the name of an authorized entity. A prescription issued pursuant to this section shall be valid for no more than two years.

(c) Authorized Entities Permitted to Maintain Supply. – An authorized entity may acquire and stock a supply of epinephrine auto-injectors pursuant to a prescription issued in accordance with this section. The supply of epinephrine auto-injectors shall be stored in accordance with the epinephrine auto-injector manufacturer's instructions for use and any additional requirements that may be established by the Department of Health and Human Services. An authorized entity that acquires and stocks a supply of epinephrine auto-injectors pursuant to a prescription issued in accordance with this section shall designate employees or



agents to be responsible for the storage, maintenance, control, and general oversight of epinephrine auto-injectors acquired by the authorized entity.

(d) Use of Epinephrine Auto-Injectors by Authorized Entities. – An employee or agent of an authorized entity or other individual may use epinephrine auto-injectors prescribed pursuant to G.S. 90-726.1 to do any of the following:

- (1) Provide an epinephrine auto-injector to any individual who the employee, agent, or other individual believes in good faith is experiencing anaphylaxis, or the parent, guardian, or caregiver of such individual, for immediate administration, regardless of whether the individual has a prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy.
- (2) Administer an epinephrine auto-injector to any individual who the employee, agent, or other individual believes in good faith is experiencing anaphylaxis, regardless of whether the individual has a prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy.

(e) Mandatory Training Program. – Designated employees or agents of authorized entities described in subsection (c) of this section shall complete an anaphylaxis training program. The training shall be conducted by (i) a physician, physician assistant, or registered nurse licensed to practice in this State; (ii) a nationally recognized organization experienced in training laypersons in emergency health treatment; or (iii) an entity or individual approved by the Department of Health and Human Services. The training may be conducted online or in person, and shall at a minimum include all of the following components:

- (1) How to recognize signs and symptoms of severe allergic reactions, including anaphylaxis.
- (2) Standards and procedures for the storage and administration of an epinephrine auto-injector.
- (3) Emergency follow-up procedures.

(f) Immunity. – None of the following persons shall be liable for any injuries or related damages that result from any act or omission taken pursuant to this section:

- (1) Any authorized entity that voluntarily and without expectation of payment possesses and makes available epinephrine auto-injectors.
- (2) Any employee or agent of an authorized entity, or any other individual, who provides or administers an epinephrine auto-injector to an individual whom the employee, agent, or other individual believes in good faith is experiencing anaphylaxis.
- (3) A health care provider that prescribes epinephrine auto-injectors to an authorized entity.
- (4) A pharmacist or health care provider that dispenses epinephrine auto-injectors to an authorized entity.
- (5) Any individual or entity that conducts the training mandated by subsection (e) of this section.

The immunity conferred by this section does not (i) apply to acts or omissions constituting gross negligence, wanton conduct, or intentional wrongdoing or (ii) eliminate, limit, or reduce any other immunity or defense that may be available under State law, including that provided under G.S. 90-21.14.

(g) Liability for Acts Outside of This State. – An authorized entity located in this State shall not be liable under the laws of this State for any injuries or related damages resulting from the provision or administration of an epinephrine auto-injector outside of this State under either of the following circumstances:

- (1) If the authorized entity would not have been liable for such injuries or related damages if the epinephrine auto-injector had been provided or administered within this State.

1 (2) If the authorized entity is not liable for such injuries or related damages
2 under the laws of the state in which the epinephrine auto-injector was
3 provided or administered.

4 (h) Does Not Constitute Practice of Medicine. – The administration of an epinephrine
5 auto-injector in accordance with this section is not the practice of medicine or any other
6 profession that otherwise requires licensure."

7 **SECTION 2.** The North Carolina Board of Pharmacy may adopt temporary and
8 permanent rules addressing the authorization for authorized entities under Section 1 of this act
9 to obtain a prescription for epinephrine for emergency health circumstances.

10 **SECTION 3.** This act becomes effective October 1, 2015.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

D

HOUSE BILL 647
Committee Substitute Favorable 4/20/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H647-CSSH-62 [v.2]

9/28/2015 9:15:25 PM

Short Title: Epi Pens in All Child-Serving Businesses.

(Public)

Sponsors:

Referred to:

April 14, 2015

A BILL TO BE ENTITLED
AN ACT AUTHORIZING HEALTH CARE PROVIDERS TO PRESCRIBE, AND
PHARMACISTS TO DISPENSE, EPINEPHRINE AUTO-INJECTORS TO
AUTHORIZED CHILD-SERVING ENTITIES OTHER THAN SCHOOLS FOR THE
EMERGENCY TREATMENT OF ANAPHYLAXIS.

The General Assembly of North Carolina enacts:

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adding a new section to read:

"§ 90-21.15A. Emergency treatment using epinephrine auto-injector; immunity.

(a) Definitions. – The following definitions apply in this section:

(1) Administer. – The direct application of an epinephrine auto-injector to the
body of an individual.

(2) Authorized entity. – Any entity or organization, other than a school
described in G.S. 115C-375.2A, at which allergens capable of causing
anaphylaxis may be present, including, but not limited to, recreation camps,
colleges, universities, day care facilities, youth sports leagues, amusement
parks, restaurants, places of employment, and sports arenas. An authorized
entity shall also include any person, corporation, or other entity that owns or
operates any entity or organization listed.

(3) Epinephrine auto-injector. – A single-use device used for the automatic
injection of a premeasured dose of epinephrine into the human body.

(4) Health care provider. – A health care provider licensed to prescribe drugs
under the laws of this State.

(5) Provide. – To supply one or more epinephrine auto-injectors to an
individual.

(b) Prescribing to Authorized Entities Permitted. – A health care provider may prescribe
epinephrine auto-injectors in the name of an authorized entity for use in accordance with this
section, and pharmacists and health care providers may dispense epinephrine auto-injectors
pursuant to a prescription issued in the name of an authorized entity. A prescription issued
pursuant to this section shall be valid for no more than two years.

(c) Authorized Entities Permitted to Maintain Supply. – An authorized entity may
acquire and stock a supply of epinephrine auto-injectors pursuant to a prescription issued in
accordance with this section. An authorized entity that acquires and stocks epinephrine auto-
injectors shall make a good faith effort to store the supply of epinephrine auto-injectors in
accordance with the epinephrine auto-injector manufacturer's instructions for use and any



* H 6 4 7 - C S S H - 6 2 - V - 2 *



1 additional requirements that may be established by the Department of Health and Human
2 Services. An authorized entity that acquires and stocks a supply of epinephrine auto-injectors
3 pursuant to a prescription issued in accordance with this section shall designate employees or
4 agents to be responsible for the storage, maintenance, control, and general oversight of
5 epinephrine auto-injectors acquired by the authorized entity.

6 (d) Use of Epinephrine Auto-Injectors by Authorized Entities. – An employee or agent
7 of an authorized entity or other individual who has completed the training required by
8 subsection (e) may use epinephrine auto-injectors prescribed pursuant to G.S. 90-726.1 to do
9 any of the following:

10 (1) Provide an epinephrine auto-injector to any individual who the employee,
11 agent, or other individual believes in good faith is experiencing anaphylaxis,
12 or a person believed in good faith to be the parent, guardian, or caregiver of
13 such individual, for immediate administration, regardless of whether the
14 individual has a prescription for an epinephrine auto-injector or has
15 previously been diagnosed with an allergy.

16 (2) Administer an epinephrine auto-injector to any individual who the employee,
17 agent, or other individual believes in good faith is experiencing anaphylaxis,
18 regardless of whether the individual has a prescription for an epinephrine
19 auto-injector or has previously been diagnosed with an allergy.

20 (e) Mandatory Training Program. – An authorized entity that elects to acquire and stock
21 a supply of epinephrine auto-injectors as described in subsection (c) of this section shall
22 designate employees or agents to complete an anaphylaxis training program. The training may
23 be conducted online or in person, and shall at a minimum include all of the following
24 components:

25 (1) How to recognize signs and symptoms of severe allergic reactions, including
26 anaphylaxis.

27 (2) Standards and procedures for the storage and administration of an
28 epinephrine auto-injector.

29 (3) Emergency follow-up procedures.

30 In person training shall cover the three components listed in this subsection and be
31 conducted by (i) a physician, physician assistant, or registered nurse licensed to practice in this
32 State; (ii) a nationally recognized organization experienced in training layperson in emergency
33 health treatment; or (iii) an entity or individual approved by the Department of Health and
34 Human Services.

35 Online training shall cover the three components listed in this subsection and be offered (i)
36 by a nationally recognized organization experienced in training laypersons in emergency health
37 treatment, (ii) by an entity or individual approved by the Department of Health and Human
38 Services, or (iii) by means of an online training course that has been approved by another state.

39 (f) Immunity. –

40 (1) The following persons are immune from criminal liability and from suit in
41 any civil action brought by any person for injuries or related damages that
42 result from any act or omission taken pursuant to this section:

43 (a) Any authorized entity that voluntarily and without expectation of
44 payment possesses and makes available epinephrine auto-injectors.

45 (b) Any employee or agent of an authorized entity, or any other
46 individual, who provides or administers an epinephrine auto-injector
47 to an individual whom the employee, agent, or other individual
48 believes in good faith is experiencing symptoms of anaphylaxis and
49 has completed the required training set forth in subsection (e) of this
50 section.



- 1 (c) A health care provider that prescribes epinephrine auto-injectors to
2 an authorized entity.
3 (d) A pharmacist or health care provider that dispenses epinephrine
4 auto-injectors to an authorized entity.
5 (e) Any individual or entity that conducts the training mandated by
6 subsection (e) of this section.
7 (2) The immunity conferred by this section does not apply to acts or omissions
8 constituting willful or wanton conduct as defined in G.S. 1D-5(7) or
9 intentional wrongdoing.
10 (3) Nothing in this section creates or imposes any duty, obligation, or basis for
11 liability on any authorized entity, any employee or agent of an authorized
12 entity, or any other individual or acquire, possess, store, make available, or
13 administer an epinephrine auto-injector.
14 (4) This section does not eliminate, limit, or reduce any other immunity or
15 defense that may be available under State law, including the protections set
16 forth in G.S. 90-21.14.
17 (g) Liability for Acts Outside of This State. – An authorized entity located in this State
18 shall not be liable under the laws of this State for any injuries or related damages resulting from
19 the provision or administration of an epinephrine auto-injector outside of this State under either
20 of the following circumstances:
21 (1) If the authorized entity would not have been liable for such injuries or
22 related damages if the epinephrine auto-injector had been provided or
23 administered within this State.
24 (2) If the authorized entity is not liable for such injuries or related damages
25 under the laws of the state in which the epinephrine auto-injector was
26 provided or administered.
27 (h) Does Not Constitute Practice of Medicine. – The administration of an epinephrine
28 auto-injector in accordance with this section is not the practice of medicine or any other
29 profession that otherwise requires licensure."

30 **SECTION 2.** The North Carolina Board of Pharmacy may adopt temporary and
31 permanent rules addressing the authorization for authorized entities under Section 1 of this act
32 to obtain a prescription for epinephrine for emergency health circumstances.

33 **SECTION 3.** This act becomes effective December 31, 2015.





HOUSE BILL 647: Epi Pens in All Child-Serving Businesses

2015-2016 General Assembly

Committee: Rules and Operations of the Senate
Introduced by: Reps. McGrady, Avila, Stevens, Glazier
Analysis of: PCS to Second Edition
H647-CSSH-62

Date: September 28, 2015
Prepared by: Theresa Matula
Legislative Analyst

SUMMARY: *House Bill 647 authorizes prescribing and dispensing of epinephrine auto-injectors to authorized entities at which allergens capable of causing anaphylaxis may be present. The bill allows employees or agents of authorized entities to provide or administer epinephrine under certain circumstances to specified individuals and provides immunity for individuals acting in accordance with the bill. The bill also specifies that actions taken pursuant to the act do not constitute the practice of medicine and allows the Board of Pharmacy to adopt rules addressing the authorization for authorized entities to obtain a prescription for epinephrine for emergency health circumstances.*

The PCS makes clarifying changes throughout the bill, amends the in person and online training requirements for the mandatory training program, refines the immunity provided under the bill, and moves the effective date from October 1 to December 31, 2015.

CURRENT LAW: G.S. 115C-375.2A requires a local board of education to provide for an emergency supply of epinephrine auto-injectors on school property for use by trained school personnel to provide emergency aid to persons suffering from an anaphylactic reaction on school property. Designated personnel must undergo training related to the use of the epinephrine auto-injector and the principal must develop an emergency plan for the use of the auto-injectors. A local board of education, its members, employees, designees, agents, or volunteers, and a physician, physician assistant, or nurse practitioner of the local health department shall not be liable in civil damages for actions taken under the statute unless those actions constitute gross negligence, wanton conduct, or intentional wrongdoing.

BILL ANALYSIS: The PCS for House Bill 647 allows any entity or organization, other than a school as addressed in G.S. 115C-375.2A, at which allergens capable of causing anaphylaxis may be present to maintain a supply of epinephrine auto-injectors. Epinephrine auto-injectors are defined as "a single-use device used for the automatic injection of a premeasured dose of epinephrine into the human body." The bill allows a health care provider to prescribe epinephrine auto-injectors in the name of the authorized entity and for pharmacists and health care providers to dispense epinephrine auto-injectors to the authorized entities. The prescription will be valid for no more than 2 years. The PCS requires the authorized entity that acquires and stocks epinephrine auto-injectors to make a good faith effort to store them in accordance with manufacturer's instructions and any requirements specified by the Department of Health and Human Services. The epinephrine auto-injectors may be provided to any individual who the employee, agent or other individual believes in good faith is experiencing anaphylaxis, regardless of whether the individual has a prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy.

The bill requires mandatory training and the PCS further clarifies in person training and online training requirements. The bill provides immunity to specified individuals for any injuries or related damages that result from any act or omission taken pursuant to the bill, but would not apply to acts or omissions constituting willful or wanton conduct or intentional wrongdoing. The bill also allows the North Carolina Board of Pharmacy to adopt rules addressing the authorization for authorized entities to obtain a prescription for epinephrine auto-injectors.

EFFECTIVE DATE: This PCS changes the effective date to December 31, 2015.

O. Walker Reagan
Director



Research Division
(919) 733-2578



**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

H

3

**HOUSE BILL 735
Committee Substitute Favorable 4/28/15
Committee Substitute #2 Favorable 4/30/15**

Short Title: Reinstatement of Driving Privileges.

(Public)

Sponsors:

Referred to:

April 15, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO DIRECT THE DIVISION OF ADULT CORRECTION OF THE
3 DEPARTMENT OF PUBLIC SAFETY TO DEVELOP A PROCESS WHEREBY AN
4 INMATE WHOSE DRIVING PRIVILEGES HAVE BEEN SUSPENDED OR REVOKED
5 FOR A CONVICTION OF DRIVING WHILE IMPAIRED OR DRIVING UNDER THE
6 INFLUENCE MAY COMPLETE THE REQUIREMENTS NECESSARY FOR
7 REINSTATEMENT OF THE INMATE'S DRIVING PRIVILEGES PRIOR TO THE
8 INMATE'S RELEASE.

9 The General Assembly of North Carolina enacts:

10 **SECTION 1.** Development of Process. – The Division of Adult Correction of the
11 Department of Public Safety, in collaboration with the North Carolina Sheriffs' Association,
12 Statewide Misdemeanant Confinement Program, the Administrative Office of the Courts, the
13 Division of Motor Vehicles, and the Department of Health and Human Services, Division of
14 Mental Health, Developmental Disabilities, and Substance Abuse Services, shall develop a
15 process whereby an inmate whose driving privileges have been suspended or revoked for a
16 conviction of driving while impaired or driving under the influence may complete the
17 requirements necessary for reinstatement of the inmate's driving privileges prior to the inmate's
18 release, including any substance abuse assessments and substance abuse education and
19 treatment. The Division of Adult Correction may require an inmate participating in the process
20 established under this section to submit to a drug test if the Division of Adult Correction
21 reasonably suspects the inmate is engaged in the illegal use of controlled substances. An inmate
22 who tests positive for a controlled substance as a result of a drug test under this section is
23 ineligible to continue to participate in the process established under this section. Nothing in this
24 section shall be construed as requiring the Division of Motor Vehicles to reinstate an inmate's
25 driving privileges prior to or upon the inmate's release.

26 **SECTION 2.** Report and Deadline. – On or before October 1, 2015, the Division of
27 Adult Correction shall submit a report to the Joint Legislative Oversight Committee on Justice
28 and Public Safety on the status of the development of the process required by this act. The
29 Division of Adult Correction shall implement the process required by this act by no later than
30 January 1, 2016.

31 **SECTION 3.** Effective Date. – This act is effective when it becomes law.





GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

D

HOUSE BILL 735
Committee Substitute Favorable 4/28/15
Committee Substitute #2 Favorable 4/30/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H735-CSSA-97 [v.1]
9/28/2015 7:51:10 PM

Short Title: DPS Changes.

(Public)

Sponsors:

Referred to:

April 15, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES RELATED TO THE DEPARTMENT OF
3 PUBLIC SAFETY.

4 The General Assembly of North Carolina enacts:

5 SECTION 1.(a) S.L. 2015-241 is amended by adding a new section to read:

6 "SAFIS FUNDS

7 SECTION 16A.9.(a) Notwithstanding any other provision of this act or of the Committee
8 Report described in Section 33.2 of this act, the sum of three hundred thirty-three thousand five
9 hundred fifty-seven dollars (\$333,557) shall not be transferred from Budget Code 23002 to the
10 State Bureau of Investigation to update the Statewide Automated Fingerprint Information
11 System (SAFIS).

12 SECTION 16A.9.(b) Notwithstanding any other provision of this act or of the Committee
13 Report described in Section 33.2 of this act, the Department of Public Safety may use up to the
14 sum of three million dollars (\$3,000,000) in overrealized receipts during the 2015-2017 fiscal
15 biennium for replacement of the Statewide Automated Fingerprint Identification System
16 (SAFIS)."

17 SECTION 1.(b) G.S. 143B-930(a) reads as rewritten:

18 "(a) When the Department of Public Safety determines that any person is entitled by law
19 to receive information, including criminal records, from the State Bureau of Investigation, for
20 any purpose other than the administration of criminal justice, the State Bureau of Investigation
21 shall charge the recipient of such information a reasonable fee for retrieving such information.
22 The fee authorized by this section shall not exceed the actual cost of storing, maintaining,
23 locating, editing, researching and retrieving the information, and may be budgeted for the
24 support of the State Bureau of Investigation."

25 SECTION 2.(a) G.S. 15A-502(a2), as enacted by Section 11.(h) of S.L.
26 2015-195, reads as rewritten:

27 "(a2) It shall be the duty of the arresting law enforcement agency to cause a person
28 charged with the commission of any of the following misdemeanors to be fingerprinted, ~~for the~~
29 ~~purposes of reporting these offenses to the National Criminal Instant Background Check~~
30 ~~System (NICS),~~ fingerprinted and to forward those fingerprints to the State Bureau of
31 Investigation:

32 (1) G.S. 14-134.3 (Domestic criminal trespass), G.S. 15A-1382.1 (Offense that
33 involved domestic violence), or G.S. 50B 4.1 (Violation of a valid protective
34 order).



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(2) G.S. 20-138.1 (Impaired driving), G.S. 20-138.2 (Impaired driving in commercial vehicle), G.S. 20-138.2A (Operating a commercial vehicle after consuming alcohol), and G.S. 20-138.2B (Operating various school, child care, EMS, firefighting, or law enforcement vehicles after consuming alcohol).

(3) G.S. 90-95(a)(3) (Possession of a controlled substance)."

SECTION 2.(b) G.S. 15A-502(a4), as enacted by Section 11.(h) of S.L. 2015-195, reads as rewritten:

"(a4) It shall be the duty of the arresting law enforcement agency to cause a person who has been charged with a misdemeanor offense of assault, stalking, or communicating a threat and held under G.S. 15A 534.1 to be fingerprinted ~~for the purposes of reporting these offenses to the National Criminal Instant Background Check System (NICS)~~ and to forward those fingerprints to the State Bureau of Investigation."

SECTION 3. G.S. 143B-911(a), as amended by Section 16A.7.(f) of S.L. 2015-241, reads as rewritten:

"(a) Section Established. – There is hereby established, within the State Highway Patrol of the Department of Public Safety, the State Capitol Police Section, which shall be organized and staffed in accordance with applicable laws and regulations and within the limits of authorized appropriations. The Chief, special officers and employees of the State Capitol Police Section are not considered members of the State Highway Patrol."

SECTION 4. Section 2 of this act becomes effective October 1, 2015. The remainder of this act becomes effective July 1, 2015.





HOUSE BILL 735: DPS Changes

2015-2016 General Assembly

Committee: Rules and Operations of the Senate
Introduced by: Reps. C. Graham, Pierce
Analysis of: PCS to Third Edition
H735-CSSA-97

Date: September 29, 2015
Prepared by: Susan Sitze
Staff Attorney

SUMMARY: *The Proposed Committee Substitute (PCS) to House Bill 421 would make various changes related to the Department of Public Safety.*

BILL ANALYSIS:

Section 1(a) of the PCS would amend the budget (S.L. 2015-241, H97) to make a technical correction that is needed to ensure the State Bureau of Investigation (SBI) can spend the funds intended to be spent on updating the Statewide Automated Fingerprint Information System (SAFIS).

Section 1(b) of the PCS would amend the statute authorizing the SBI to charge a reasonable fee responding to public record requests to include the costs of storing and maintaining records in the authorized fee that can be charged.

Section 2 of the PCS would amend provisions that were enacted by S.L. 2015-195 (H562), requiring the taking of fingerprints of persons charged with certain misdemeanors, to remove the purpose language and simply provide that the fingerprints be forwarded to the SBI.

Section 3 S.L. 2015-241 (H97) eliminated the Law Enforcement Division of the Department of Public Safety and moved the State Capitol Police Section to the State Highway Patrol. Section 3 of the PCS would amend G.S. 143B-911 to clarify that the State Capitol Police are not members of the State Highway Patrol.

EFFECTIVE DATE: Section 2 of this act becomes effective October 1, 2015. The remainder of this act becomes effective July 1, 2015.

O. Walker Reagan
Director



Research Division
(919) 733-2578



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(Committee Name)

9.29.15
Date

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Jack Carr	NCC
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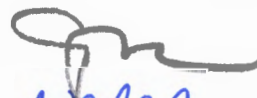
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Trotman Sanders

DOR

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9.29.15

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<i>erin Wynn</i>	<i>NCLM</i>

Alex Miller

YLG



Senate Committee on Rules and Operations of the Senate
Tuesday, June 7, 2016 at 11:00 AM
Room 1027/1128 of the Legislative Building

MINUTES

The Senate Committee on Rules and Operations of the Senate met at 11:00 AM on June 7, 2016 in Room 1027/1128 of the Legislative Building. Fourteen members were present.

Senator Tom Apodaca, Chair, presided.

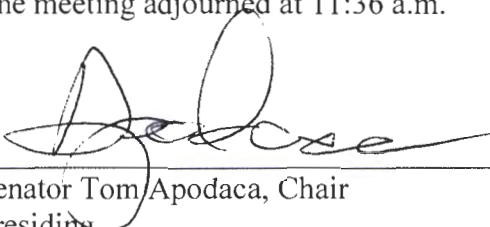
HB 169 Regulatory Reduction Act of 2016.

Jeff Hudson, an attorney with the Legislative Analysis Division, was recognized to explain the bill. It amends a number of State laws related to business regulation; State and local government regulation; and agricultural, energy, environmental and natural resources regulation. Jeff Warren, Senate Senior Policy Advisor, was recognized to answer questions regarding the Coastal Management grant cycle. Senator Wade introduced a technical amendment and Senator Tucker moved for its adoption. The motion carried. Senator Gunn was recognized to explain and answer questions on the distillery section of the bill. Chris Saunders, a fiscal analyst with the Fiscal Research Division, was recognized to further explain the distillery section. Senator Hise moved to adopt the bill as amended and the motion carried. A copy of the bill, the summary and the amendment is attached.

HB 161 Adopt State Cat.

The bill was removed from the agenda with the recommendation that it be referred to the Senate Health Care Committee.

The meeting adjourned at 11:36 a.m.



Senator Tom Apodaca, Chair
Presiding



DeAnne Mangum, Committee Clerk



Senate Committee on Rules and Operations of the Senate
Tuesday, June 7, 2016, 11:00 AM
1027/1128 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 169	Regulatory Reduction Act of 2016.	Representative Hager Representative Presnell

Adjournment



Apocaea

adjourned 11:36a

Senate Committee on Rules and Operations of the Senate
Tuesday, June 7, 2016, 11:00 AM
1027/1128 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
① HB 169	Regulatory Reduction Act of 2016. <i>Wade tech amend Jeff Hudson explained</i>	Representative Hager
② HB 161	Adopt State Cat. <i>moved to com on Health</i>	Representative Presnell Representative B. Richardson Representative Glazier

Adjournment

- ① Jeff Warren rec'd to ans Coastal Mngmt grant cycle ?'s
Tucker moves for the amend (FAV)
Chris rec'd to ans distillery ?'s
Jeff Hudson rec'd to ans ?'s
Sim-Gunn rec'd to ans distillery ?'s
Hise moves (FAV)
CON reform



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT
Senator Apodaca, Co-Chair**

Tuesday, June 07, 2016

Senator Apodaca,
submits the following with recommendations as to passage:

**UNFAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 1, BUT
FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 2**

HB 169 (SCS#1)

Regulatory Reduction Act of 2016.

Draft Number:	H169-PCS10544-SB-23
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Trudy Wade will handle HB 169



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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

4

HOUSE BILL 169
Committee Substitute Favorable 3/18/15
Committee Substitute #2 Favorable 7/16/15
Senate Commerce Committee Substitute Adopted 5/26/16

Short Title: Regulatory Reduction Act of 2016.

(Public)

Sponsors:

Referred to:

March 9, 2015

A BILL TO BE ENTITLED
AN ACT TO PROVIDE FURTHER REGULATORY RELIEF TO THE CITIZENS OF NORTH
CAROLINA.

The General Assembly of North Carolina enacts:

PART I. ADMINISTRATIVE REFORMS

RESTRICTIONS ON RULES WITH SUBSTANTIAL FINANCIAL COSTS

SECTION 1.1. Chapter 150B of the General Statutes is amended by adding a new
section to read:

"§ 150B-19.4. Requirements on rules with substantial financial costs.

(a) Prohibition. – Notwithstanding any authority given to an agency to adopt a rule, an agency may not adopt a permanent rule or set of rules with a projected aggregate financial cost to all persons affected equal to or greater than one hundred million dollars (\$100,000,000) during any five-year period. The agency's determination of the projected aggregate financial cost of a permanent rule or set of rules shall comply with the requirements of G.S. 150B-21.4(b1). The agency's determination of the projected aggregate financial cost of a permanent rule or set of rules shall not include any financial benefits of the permanent rule or set of rules.

(b) Limitation. – If an agency determines that a proposed permanent rule or set of rules will have a projected aggregate financial cost to all persons affected equal to or greater than ten million dollars (\$10,000,000) during any five-year period, the adoption of the permanent rule or set of rules must comply with the following:

- (1) If the agency is a board, a commission, a council, or other similar unit of government, a certification that the adoption of the rule or set of rules must be approved by at least sixty percent (60%) of those voting on the rule or set of rules.
- (2) For an agency headed by a member of the Council of State, the adoption of the rule or set of rules must be accompanied by a certification signed by the member of the Council of State indicating the member's review and support of the rule or set or rules.
- (3) For all other agencies, the adoption of the rule or set of rules must be accompanied by a certification signed by the Governor indicating the Governor's review and support of the rule or set of rules.



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(c) Legislative Review. – A permanent rule or set of rules subject to the limitation of subsection (b) of this section shall be subject to the provisions of G.S. 150B-21.3(b1) as if, pursuant to G.S. 150B-21.3(b2), the rule or set of rules received written objections from 10 or more persons and a bill specifically disapproving the rule or set of rules was introduced in a house of the General Assembly before the thirty-first legislative day."

SECTION 1.2. G.S. 150B-21.6 reads as rewritten:

"§ 150B-21.6. Incorporating material in a rule by reference.

An agency may incorporate the following material by reference in a rule without repeating the text of the referenced material:

- (1) Another rule or part of a rule adopted by the agency.
- (2) All or part of a code, standard, or regulation adopted by another ~~agency, the federal government, agency~~ or a generally recognized organization or association.
- (3) Repealed by Session Laws 1997-34, s. 5.
- (4) All or part of a code, standard, or regulation adopted by the federal government if the agency establishes a procedure by which any change by the federal government is reviewed and approved by the agency within 30 days of the change.

In incorporating material by reference, the agency must designate in the rule whether or not the incorporation includes subsequent amendments and editions of the referenced material. The agency can change this designation only by a subsequent rule-making proceeding. The agency must have copies of the incorporated material available for inspection and must specify in the rule both where copies of the material can be obtained and the cost on the date the rule is adopted of a copy of the material.

A statement in a rule that a rule incorporates material by reference in accordance with former G.S. 150B-14(b) is a statement that the rule does not include subsequent amendments and editions of the referenced material. A statement in a rule that a rule incorporates material by reference in accordance with former G.S. 150B-14(c) is a statement that the rule includes subsequent amendments and editions of the referenced material."

SECTION 1.3. G.S. 150B-19.3(a) reads as rewritten:

"(a) An agency authorized to implement and enforce State and federal environmental laws may not adopt a permanent rule for the protection of the environment or natural resources that imposes a more restrictive standard, limitation, or requirement than those imposed by federal law or rule, if a federal law or rule pertaining to the same subject matter has been adopted, unless adoption of the rule is required by one of the subdivisions of this subsection. A permanent rule required by a serious and unforeseen threat to the public health, safety, or welfare shall be subject to the limitation and legislative review provisions of G.S. 150B-19.4(b) and (c). A permanent rule required by one of the following subdivisions of this subsection shall be subject to the provisions of G.S. 150B-21.3(b1) as if the rule received written objections from 10 or more persons under G.S. 150B-21.3(b2):

- (1) ~~A serious and unforeseen threat to the public health, safety, or welfare.~~
- (2) An act of the General Assembly or United States Congress that expressly requires the agency to adopt rules.
- (3) A change in federal or State budgetary policy.
- (4) A federal regulation required by an act of the United States Congress to be adopted or administered by the State.
- (5) A court order."

SECTION 1.4. G.S. 150B-21.3A reads as rewritten:

"§ 150B-21.3A. Periodic review and expiration of existing rules.

...

(e) ~~Rules to Conform to or Implement Federal Law. — Rules adopted to conform to or implement federal law shall not expire as provided by this section. The Commission shall report annually to the Committee on any rules that do not expire pursuant to this subsection.~~

~~(e1) Rules to Protect Inchoate or Accrued Rights of Retirement Systems Members. — Rules deemed by the Boards of Trustees established under G.S. 128-28 and G.S. 135-6 to protect inchoate or accrued rights of members of the Retirement Systems administered by the State Treasurer shall not expire as provided by this section. The Commission shall report annually to the Committee on any rules that do not expire pursuant to this subsection.~~ Exclusions. — The Commission shall report annually to the Committee on any rules that do not expire pursuant to this subsection. The following rules shall not expire as provided in this section:

(1) Rules adopted to conform to or implement federal law.

(2) Rules deemed by the Boards of Trustees established under G.S. 128-28 and G.S. 135-6 to protect inchoate or accrued rights of members of the Retirement Systems administered by the State Treasurer.

...."

SECTION 1.5. Sections 1.1, 1.2, 1.3, and 1.4 are effective when this act becomes law. Sections 1.1, 1.3, and 1.4 apply to rules adopted or undergoing the review process on or after that date.

PART II. BUSINESS REGULATION

EXEMPT CERTAIN BUILDING CODE CLASSIFICATIONS FROM ENERGY EFFICIENCY STANDARDS

SECTION 2.1. G.S. 143-138 is amended by adding a new subsection to read:

"(b16) Exclusion from Energy Efficiency Code Requirements for Certain Use and Occupancy Classifications.— The Council shall provide for an exemption from any requirements in the energy efficiency standards pursuant to Chapter 13 of the 2012 North Carolina Building Code and the 2012 Energy Conservation Code, and any subsequent amendments to the Building Code and Energy Conservation Code, for the following use and occupancy classifications pursuant to Chapter 3 of the 2012 North Carolina Building Code: Section 306, Factory Group F; Section 311, Storage Group S; and Section 312, Utility and Miscellaneous Group U."

STREAMLINE MORTGAGE NOTICE REQUIREMENTS

SECTION 2.2. G.S. 45-91 reads as rewritten:

"§ 45-91. Assessment of fees; processing of payments; publication of statements.

A servicer must comply as to every home loan, regardless of whether the loan is considered in default or the borrower is in bankruptcy or the borrower has been in bankruptcy, with the following requirements:

(1) Any fee that is incurred by a servicer shall be both:

- a. Assessed within 45 days of the date on which the fee was incurred. Provided, however, that attorney or trustee fees and costs incurred as a result of a foreclosure action shall be assessed within 45 days of the date they are charged by either the attorney or trustee to the servicer.
- b. Explained clearly and conspicuously in a statement mailed to the borrower at the borrower's last known address within 30 days after assessing the fee, provided the servicer shall not be required to take any action in violation of the provisions of the federal bankruptcy code. The servicer shall not be required to send such a statement for a fee that: (i) results from a service that is affirmatively requested by the borrower, (ii) is paid for by the borrower at the time the service is provided, and (iii) is not charged to the borrower's loan account.

- (2) All amounts received by a servicer on a home loan at the address where the borrower has been instructed to make payments shall be accepted and credited, or treated as credited, within one business day of the date received, provided that the borrower has made the full contractual payment and has provided sufficient information to credit the account. If a servicer uses the scheduled method of accounting, any regularly scheduled payment made prior to the scheduled due date shall be credited no later than the due date. Provided, however, that if any payment is received and not credited, or treated as credited, the borrower shall be notified within 10 business days by mail at the borrower's last known address of the disposition of the payment, the reason the payment was not credited, or treated as credited to the account, and any actions necessary by the borrower to make the loan current.
- (2a) The notification required by subdivision (2) of this section is not necessary if (i) the servicer complies with the terms of any agreement or plan made with the borrower and has applied and credited payments received in the manner required, and (ii) the servicer is applying and crediting payments to the borrower's account in compliance with all applicable State and federal laws, including bankruptcy laws, and if at least one of the following occurs:
- a. The borrower has entered into a written loss mitigation, loan modification, or forbearance agreement with the servicer that itemizes all amounts due and specifies how payments will be applied and credited;
 - b. The borrower has elected to participate in an alternative payment plan, such as a biweekly payment plan, that specifies as part of a written agreement how payments will be applied and credited; or
 - c. The borrower is making payments pursuant to a bankruptcy plan.
- (3) Failure to charge the fee or provide the information within the allowable time and in the manner required under subdivision (1) of subsection (a) of this section constitutes a waiver of such fee.
- (4) All fees charged by a servicer must be otherwise permitted under applicable law and the contracts between the parties. Nothing herein is intended to permit the application of payments or method of charging interest which is less protective of the borrower than the contracts between the parties and other applicable law.
- (5) The obligations of mortgage servicers set forth in G.S. 53-244.110.
- (6) The statement mailing requirement and borrower notification requirements of this section are deemed satisfied by compliance with the disclosure requirements contained in Regulation Z, 12 C.F.R. § 1026.41."

**AUTHORIZE NORTH CAROLINA DISTILLERIES TO BETTER COMPETE
NATIONALLY AND INTERNATIONALLY**

SECTION 2.3.(a) G.S. 18B-1105 reads as rewritten:

"§ 18B-1105. Authorization of distillery permit.

(a) Authorized Acts. – The holder of a distillery permit may do any of the following:

- (1) Manufacture, purchase, import, possess and transport ingredients and equipment used in the distillation of spirituous liquor
- (2) Sell, deliver and ship spirituous liquor in closed containers at wholesale to exporters and local boards within the State, ~~and, subject to the laws of other jurisdictions, at wholesale or retail to private or public agencies or establishments of other states or nations.~~ State.
- (2a) Sell spirituous liquor in closed containers at wholesale or retail, subject to the laws of other jurisdictions, for delivery outside the State.

- 1 (3) Transport into or out of the distillery the maximum amount of liquor allowed
2 under federal law, if the transportation is related to the distilling process.
- 3 (4) Sell spirituous liquor distilled at the distillery in closed containers to visitors
4 who tour the distillery for consumption off the premises. Sales under this
5 subdivision are allowed only in a county where the establishment of a county or
6 municipal ABC store has been approved pursuant to G.S. 18B-602(g) and are
7 subject to the time and day restrictions in G.S. 18B-802. Spirituous liquor sold
8 under this subdivision shall (i) be listed as a code item for sale in the State, (ii)
9 be sold at the price set by the Commission for the code item pursuant to
10 G.S. 18B-804(b), and (iii) have affixed to its bottle a sticker that bears the
11 words "North Carolina Distillery Tour Commemorative Spirit" in addition to
12 any other labeling requirements set by law. Consumers purchasing spirituous
13 liquor under this subdivision are limited to purchasing, and the selling distillery
14 is limited to selling to each consumer, no more than one bottle of each product
15 produced at the distillery of the spirituous liquor per 12 month period. The
16 distillery shall use a commonly adopted standard point of sale system to
17 maintain searchable electronic records captured at the point of sale, to include
18 the purchaser's name, drivers license number, and date of birth for at least 12
19 months from the date of purchase. The Commission shall adopt rules regulating
20 the retail sale of spirituous liquor under this subdivision.

21 (b) Distilleries for Fuel Alcohol. – Any person in possession of a Federal Operating Permit
22 pursuant to Title 27, Code of Federal Regulations, Part 19 (April 1, 2010 Edition), shall obtain a
23 fuel alcohol permit before manufacturing any alcohol. The permit shall entitle the permittee to
24 perform only those acts allowed by the Federal Operating Permit, and all conditions of the Federal
25 Operating Permit shall apply to the State permit."

26 **SECTION 2.3.(b)** G.S. 18B-804 is amended by adding a new subsection to read:
27 **"§ 18B-804. Alcoholic beverage pricing.**

28 (a) Uniform Price of Spirituous Liquor. – The retail price of spirituous liquor sold in ABC
29 stores and permitted distilleries shall be uniform throughout the State, unless otherwise provided
30 by the ABC law.

31 (b) Sale Price of Spirituous Liquor. – The sale of spirituous liquor, including antique
32 spirituous liquor, sold at the uniform State price shall consist of the following components:

- 33 (1) The distiller's or the antique spirituous liquor seller's price.
34 (2) The freight and bailment charges of the State warehouse as determined by the
35 Commission.
36 (3) A markup for local boards as determined by the Commission.
37 (4) The tax levied under G.S. 105-113.80(c), which shall be levied on the sum of
38 subdivisions (1), (2), and (3).
39 (5) An additional markup for local boards equal to three and one-half percent (3
40 1/2%) of the sum of subdivisions (1), (2), and (3).
41 (6) A bottle charge of one cent (1¢) on each bottle containing 50 milliliters or less
42 and five cents (5¢) on each bottle containing more than 50 milliliters.
43 (6a) The bailment surcharge.
44 (6b) An additional bottle charge for local boards of one cent (1¢) on each bottle
45 containing 50 milliliters or less and five cents (5¢) on each bottle containing
46 more than 50 milliliters.
47 (7) A rounding adjustment, the formula of which may be determined by the
48 Commission, so that the sale price will be divisible by five.
49 (8) If the spirituous liquor is sold to a mixed beverage permittee for resale in mixed
50 beverages, a charge of twenty dollars (\$20.00) on each four liters and a
51 proportional sum on lesser quantities.

(9) If the spirituous liquor is sold to a guest room cabinet permittee for resale, a charge of twenty dollars (\$20.00) on each four liters and a proportional sum on lesser quantities.

(b1) Price of Spirituous Liquor Sold at Distillery. – When the holder of a distillery permit sells spirituous liquor distilled at the distillery pursuant to G.S. 18B-1105(a)(4), the retail price of the spirituous liquor shall be the uniform State price set by subsection (a) of this section. However, the holder of the distillery permit shall not be required to remit the components of the price set forth by subdivisions (2), (3), (5), (6), (6a), (6b), and (7) of subsection (b) of this section.

(b2) Price of Spirituous Liquor Sold for Delivery Outside the State. – When the holder of a distillery permit sells spirituous liquor for delivery outside the State pursuant to G.S. 18B-1105(a)(2a), the retail price of the spirituous liquor shall be the distiller's price.

(c) Sale Price of Fortified Wine. – The sale price of fortified wine shall include the tax levied by G.S. 105-113.80(b), as well as State and local sales taxes.

(d) Repealed by Session Laws 1985, c. 59, s. 2."

SECTION 2.3.(c) G.S. 18B-800 reads as rewritten:

"§ 18B-800. Sale of alcoholic beverages in ABC stores.

(a) Spirituous Liquor. – Except as provided in ~~Article 10~~ Articles 10 and 11 of this Chapter, spirituous liquor may be sold only in ABC stores operated by local boards.

(b) Fortified Wine. – In addition to spirituous liquor, ABC stores may sell fortified wine. ABC stores may also sell wine products, irrespective of alcohol content by volume, which were classified as fortified wine by the ABC Commission prior to July 7, 2004.

(c) Commission Approval. – No ABC store may sell any alcoholic beverage which has not been approved by the Commission for sale in this State.

(d) Expired.

(e) Each ABC store shall display spirits which are distilled in North Carolina in an area dedicated solely to North Carolina products."

SECTION 2.3.(d) The Alcoholic Beverage Control Commission shall adopt temporary rules to amend its rules consistent with this section.

SECTION 2.3.(e) This section becomes effective July 1, 2016.

PART III. STATE AND LOCAL GOVERNMENT REGULATION

DIRECT THE MEDICAL CARE COMMISSION TO ADOPT THE RECOMMENDATIONS OF THE AMERICAN SOCIETY OF HEALTHCARE ENGINEERS FACILITY GUIDELINES INSTITUTE

SECTION 3.1.(a) Definitions. – For purposes of this section and its implementation:

(1) "Hospital Facilities Rules" means all of the following:

- a. 10A NCAC 13B .6001 – Physical Plant: Location.
- b. 10A NCAC 13B .6002 – Physical Plant: Roads and Parking.
- c. 10A NCAC 13B .6104 – General Requirements: Access and Safety.
- d. 10A NCAC 13B .6201 – Construction Requirements: Medical, Surgical, and Post-Partum Care Unit.
- e. 10A NCAC 13B .6202 – Construction Requirements: Special Care Unit.
- f. 10A NCAC 13B .6203 – Construction Requirements: Neonatal Level I and Level II Nursery Unit.
- g. 10A NCAC 13B .6204 – Construction Requirements: Neonatal Level III and Level IV Nursery.
- h. 10A NCAC 13B .6205 – Construction Requirements: Psychiatric Unit.
- i. 10A NCAC 13B .6206 – Construction Requirements: Surgical Department Requirements.

- j. 10A NCAC 13B .6207 – Construction Requirements: Obstetrical Department Requirements.
- k. 10A NCAC 13B .6209 – Construction Requirements: Emergency Services.
- l. 10A NCAC 13B .6210 – Construction Requirements: Imaging Services.
- m. 10A NCAC 13B .6211 – Construction Requirements: Laboratory Services.
- n. 10A NCAC 13B .6212 – Construction Requirements: Morgue.
- o. 10A NCAC 13B .6213 – Construction Requirements: Pharmacy Services.
- p. 10A NCAC 13B .6214 – Construction Requirements: Dietary Services.
- q. 10A NCAC 13B .6215 – Construction Requirements: Administration.
- r. 10A NCAC 13B .6216 – Construction Requirements: Medical Records Services.
- s. 10A NCAC 13B .6217 – Construction Requirements: Central Medical and Surgical Supply Services.
- t. 10A NCAC 13B .6218 – Construction Requirements: General Storage.
- u. 10A NCAC 13B .6219 – Construction Requirements: Laundry Services.
- v. 10A NCAC 13B .6220 – Construction Requirements: Physical Rehabilitation Services.
- w. 10A NCAC 13B .6221 – Construction Requirements: Engineering Services.
- x. 10A NCAC 13B .6222 – Construction Requirements: Waste Processing.
- y. 10A NCAC 13B .6223 – Construction Requirements: Details and Finishes.
- z. 10A NCAC 13B .6224 – Construction Requirements: Elevator Requirements.
- aa. 10A NCAC 13B .6225 – Construction Requirements: Mechanical Requirements.
- bb. 10A NCAC 13B .6226 – Construction Requirements: Plumbing and Other Piping Systems Requirements.
- cc. 10A NCAC 13B .6227 – Construction Requirements: Electrical Requirements.

- (2) "Guidelines" means the American Society for Healthcare Engineering's Facility Guidelines Institute "Guidelines for Design and Construction of Hospitals and Outpatient Facilities."

SECTION 3.1.(b) Repeal Hospital Facilities Rules. – The Secretary of Health and Human Services and the Medical Care Commission shall repeal the Hospital Facilities Rules on or before December 31, 2016.

SECTION 3.1.(c) Implementation and Rule-Making Authority. – Before the effective date of the repeal of the Hospital Facilities Rules required pursuant to subsection (b) of this section, the Medical Care Commission shall adopt temporary rules to replace the Hospital Facilities Rules and incorporate by reference all applicable rules, standards, and requirements of the most current edition of the Guidelines. If temporary rules are not adopted before the repeal of the Hospital Facilities Rules required pursuant to subsection (a) of this section, the Commission shall utilize the 2014 Edition of the Guidelines until such time as temporary rules are adopted. Furthermore, the Commission shall adopt permanent rules pursuant to this section.

SECTION 3.1.(d) Additional Rule-Making Authority. – The Commission shall adopt rules to replace the Hospital Facilities Rules. Notwithstanding G.S. 150B-19(4), the rules adopted by the Commission pursuant to this section shall conform to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of

Chapter 150B of the General Statutes. 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). Furthermore, rules adopted pursuant to this section shall be exempt from the provisions of Chapter 150B of the General Statutes that require the preparation of fiscal notes for any rule proposed to incorporate the Guidelines by reference.

SECTION 3.1.(e) Exemption from Periodic Review. – Until such time as the Hospital Facilities Rules are repealed pursuant to subsection (b) of this section, the Hospital Facilities Rules shall be exempt from the periodic review process required pursuant to G.S. 150B-21.3A.

ELIMINATE EFFICIENCY STANDARDS HAVING BEEN MET OR EXCEEDED BY STATE BUILDINGS

SECTION 3.2.(a) G.S. 143-64.12 is repealed.

SECTION 3.2.(b) G.S. 116-30.3B.(c) is repealed.

REPEAL CERTAIN EDUCATIONAL TESTING LAWS

SECTION 3.3. G.S. 115C-174.12(c) reads as rewritten:

"(c) Local boards of education shall cooperate with the State Board of Education in implementing the provisions of this Article, including the regulations and policies established by the State Board of Education. Local school administrative units shall use the annual tests to fulfill the purposes set out in this Article. ~~Local school administrative units are encouraged to continue to develop local testing programs designed to diagnose student needs.~~"

PART IV. AGRICULTURE, ENERGY, ENVIRONMENTAL, AND NATURAL RESOURCES REGULATION

REPEAL RECYCLING REQUIREMENTS FOR DISCARDED COMPUTER EQUIPMENT AND TELEVISIONS

SECTION 4.1.(a) Part 2H of Article 9 of Chapter 130A of the General Statutes is repealed.

SECTION 4.1.(b) G.S. 130A-309.10(f)(14) is repealed.

SECTION 4.1.(c) G.S. 130A-309.10(f)(15) is repealed.

SECTION 4.1.(d) G.S. 130A-309.10(f1)(7) is repealed.

SECTION 4.1.(e) G.S. 130A-309.10(f1)(8) is repealed.

SECTION 4.1.(f) G.S. 130A-309.09A(d)(8) is repealed.

REPEAL YARD WASTE PERMITTING REQUIREMENTS

SECTION 4.2.(a) G.S. 130A-290(a) reads as rewritten:

"§ 130A-290. Definitions.

(a) Unless a different meaning is required by the context, the following definitions shall apply throughout this Article:

...

(45) "Yard trash" means solid waste ~~consisting solely of vegetative matter~~ resulting from landscaping ~~maintenance and yard maintenance, including brush, grass, tree limbs, and similar vegetative material.~~

(46) "Yard waste" means yard trash and land-clearing debris, including stumps, limbs, leaves, grass, and untreated wood."

SECTION 4.2.(b) G.S. 130A-294 is amended by adding a new subsection to read:

"(v) Yard waste diverted from the waste stream or collected as source separated material is not subject to a solid waste permit for transfer, treatment, processing, storage, or disposal in a permitted solid waste management facility. Operators of facilities where yard waste is subject to transfer, treatment, processing, storage, or disposal shall, however, comply with all other federal,

State, or local laws, ordinances, rules, regulations, or orders, including zoning, flood plain, and wetland restrictions, sedimentation and erosion control requirements, and mining regulations. Nothing in this subsection shall be construed as limiting the authority of any local government to manage the transfer, treatment, processing, storage, or disposal of yard waste."

SECTION 4.2.(c) This section becomes effective July 1, 2017, and applies to the transfer, treatment, processing, storage, or disposal of yard waste occurring on or after that date.

ELIMINATE OUTDATED PROVISIONS OF THE COASTAL AREA MANAGEMENT ACT

SECTION 4.3.(a) G.S. 113A-109 is repealed.

SECTION 4.3.(b) G.S. 113A-112 is repealed.

REPEAL PASTURE POINTS PROVISION

SECTION 4.4. Section 4(c) of S.L. 2001-355 is repealed.

REPEAL RESTRICTION ON PET TURTLE SALES

SECTION 4.5. The Commission for Public Health shall repeal 10A NCAC 41A .0301 (Definitions) and 10A NCAC 41A .0302 (Sale of Turtles Restricted) on or before December 1, 2016. Until the effective date of the repeal of the rule required pursuant to this section, the Department of Health and Human Services, the Department of Environmental Quality, or any other political subdivision of the State shall not implement or enforce 10A NCAC 41A .0301 (Definitions) and 10A NCAC 41A .0302 (Sale of Turtles Restricted).

LIMIT MOTOR VEHICLE EMISSIONS INSPECTIONS

SECTION 4.6.(a) G.S. 143-215.107A reads as rewritten:

"§ 143-215.107A. Motor vehicle emissions testing and maintenance program.

(a) General Provisions. –

(1) G.S. 143-215.107(a)(6) shall be implemented as provided in this section.

(2) Motor vehicle emissions inspections shall be performed by a person who holds an emissions inspection mechanic license issued as provided in G.S. 20-183.4A(c) at a station that holds an emissions inspection station license issued under G.S. 20-183.4A(a) or at a place of business that holds an emissions self-inspector license issued as provided in G.S. 20-183.4A(d). Motor vehicle emissions inspections may be performed by a decentralized network of test-and-repair stations as described in 40 Code of Federal Regulations § 51.353 (1 July 1998 Edition). The Commission may not require that motor vehicle emissions inspections be performed by a network of centralized or decentralized test-only stations.

(b) Repealed by Session Laws 2000-134, s. 2, effective July 14, 2000.

(c) Counties Covered. – Motor vehicle emissions inspections shall be performed in the following counties: Alamance, Brunswick, Buncombe, ~~Burke~~, Cabarrus, Caldwell, Carteret, Catawba, Chatham, ~~Cleveland~~, Craven, Cumberland, Davidson, Durham, Edgecombe, Forsyth, Franklin, Gaston, Granville, Guilford, Harnett, Haywood, Henderson, Iredell, Johnston, Lee, Lenoir, Lincoln, Mecklenburg, Moore, Nash, New Hanover, Onslow, Orange, Pitt, Randolph, Robeson, Rockingham, Rowan, ~~Rutherford~~, Stanly, ~~Stokes~~, ~~Surry~~, Union, Wake, Wayne, ~~Wilkes~~ and Wilson.

(d) Repealed by Session Laws 2012-200, s. 12(a), effective August 1, 2012."

SECTION 4.6.(b) No later than December 31, 2016, the Department of Environmental Quality shall prepare and submit to the United States Environmental Protection Agency for approval by that agency a proposed North Carolina State Implementation Plan

amendment based on the change to the motor vehicle emissions testing program provided in this section.

SECTION 4.6.(c) This section becomes effective on the later of the following dates and applies to motor vehicles inspected, or due to be inspected, on or after the effective date of this act:

(1) July 1, 2017.

(2) The first day of a month that is 60 days after the Department of Environmental Quality certifies to the Revisor of Statutes that the United States Environmental Protection Agency has approved an amendment to the North Carolina State Implementation Plan submitted as required by Section 4.6(b) of this act. The Department shall provide this notice along with the effective date of this act on its Web site and by written or electronic notice to emissions inspection mechanic license holders, emissions inspection station licensees, and self-inspector licensees in the counties where motor vehicle emissions inspection requirements are removed by this act.

PART V. ELIMINATE, CONSOLIDATE, AND AMEND REPORTS TO THE ENVIRONMENTAL REVIEW COMMISSION

ELIMINATE ANNUAL REPORT ON MINING ACCOUNT PURSUANT TO THE MINING ACT OF 1971 BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY

SECTION 5.1. G.S. 74-54.1(c) is repealed.

ELIMINATE ANNUAL REPORT ON THE IMPLEMENTATION OF THE SUSTAINABLE ENERGY EFFICIENT BUILDINGS PROGRAM BY THE DEPARTMENT OF ADMINISTRATION

SECTION 5.2.(a) G.S. 143-135.39(f) and (g) are repealed.

SECTION 5.2.(b) G.S. 143-135.40(b) is repealed.

ELIMINATE QUARTERLY REPORT ON SYSTEMWIDE MUNICIPAL AND DOMESTIC WASTEWATER COLLECTION SYSTEM PERMIT PROGRAM BY THE ENVIRONMENTAL MANAGEMENT COMMISSION

SECTION 5.3. G.S. 143-215.9B reads as rewritten:

"§ 143-215.9B. Systemwide municipal and domestic wastewater collection system permit program report.

The Environmental Management Commission shall develop and implement a permit program for municipal and domestic wastewater collection systems on a systemwide basis. The collection system permit program shall provide for performance standards, minimum design and construction requirements, a capital improvement plan, operation and maintenance requirements, and minimum reporting requirements. In order to ensure an orderly and cost-effective phase-in of the collection system permit program, the Commission shall implement the permit program over a five-year period beginning 1 July 2000. The Commission shall issue permits for approximately twenty percent (20%) of municipal and domestic wastewater collection systems that are in operation on 1 July 2000 during each of the five calendar years beginning 1 July 2000 and shall give priority to those collection systems serving the largest populations, those under a moratorium imposed by the Commission under G.S. 143-215.67, and those for which the Department of Environmental Quality has issued a notice of violation for the discharge of untreated wastewater. ~~The Commission shall report on its progress in developing and implementing the collection system permit program required by this section as a part of each quarterly report the Environmental Management Commission makes to the Environmental Review Commission pursuant to G.S. 143B-282(b)."~~

**ELIMINATE ANNUAL REPORTS ON REDUCING VEHICLE EMISSIONS FROM
STATE EMPLOYEE AND PRIVATE SECTOR VEHICLES BY THE DEPARTMENT OF
TRANSPORTATION**

SECTION 5.4. G.S. 143-215.107C(d) and (e) are repealed.

**ELIMINATE ANNUAL REPORT ON PURCHASE OF NEW MOTOR VEHICLES AND
FUEL SAVINGS BY THE DEPARTMENT OF ADMINISTRATION**

SECTION 5.5. G.S. 143-341(8)i.2b. reads as rewritten:

"2b. As used in this sub-sub-subdivision, "fuel economy" and "class of comparable automobiles" have the same meaning as in Part 600 of Title 40 of the Code of Federal Regulations (July 1, 2008 Edition). As used in this sub-sub-subdivision, "passenger motor vehicle" has the same meaning as "private passenger vehicle" as defined in G.S. 20-4.01. Notwithstanding the requirements of sub-sub-subdivision 2a. of this sub-subdivision, every request for proposals for new passenger motor vehicles to be purchased by the Department shall state a preference for vehicles that have a fuel economy for the new vehicle's model year that is in the top fifteen percent (15%) of its class of comparable automobiles. The award for every new passenger motor vehicle that is purchased by the Department shall be based on the Department's evaluation of the best value for the State, taking into account fuel economy ratings and life cycle cost that reasonably consider both projected fuel costs and acquisition costs. This sub-sub-subdivision does not apply to vehicles used in law enforcement, emergency medical response, and firefighting. ~~The Department shall report the number of new passenger motor vehicles that are purchased as required by this sub-sub-subdivision, the savings or costs for the purchase of vehicles to comply with this sub-sub-subdivision, and the quantity and cost of fuel saved for the previous fiscal year on or before October 1 of each year to the Joint Legislative Commission on Governmental Operations, and the Environmental Review Commission.~~"

**ELIMINATE BIENNIAL STATE OF THE ENVIRONMENT REPORT BY THE
DEPARTMENT OF ENVIRONMENTAL QUALITY**

SECTION 5.6. G.S. 143B-279.5 is repealed.

**ELIMINATE ANNUAL REPORT ON FISH KILL ACTIVITY BY THE DEPARTMENT
OF ENVIRONMENTAL QUALITY**

SECTION 5.7. G.S. 143B-279.7(c) is repealed.

**ELIMINATE THE ENVIRONMENTAL MANAGEMENT COMMISSION QUARTERLY
REPORT ON DEVELOPING ENGINEERING STANDARDS GOVERNING MUNICIPAL
AND DOMESTIC SYSTEMS TO ALLOW REGIONAL INTERCONNECTION**

SECTION 5.8. Section 11.1 of S.L. 1999-329 reads as rewritten:

"Section 11.1. The Environmental Management Commission shall develop engineering standards governing municipal and domestic wastewater collection systems that will allow interconnection of these systems on a regional basis. ~~The Commission shall report on its progress~~"

in developing the engineering standards required by this section as a part of each quarterly report the Commission makes to the Environmental Review Commission pursuant to G.S. 143B-282(b)."

ELIMINATE BIENNIAL REPORT ON IMPLEMENTATION OF THE NORTH CAROLINA BEACH AND INLET MANAGEMENT PLAN BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY

SECTION 5.9. Section 13.9(d) of S.L. 2000-67 reads as rewritten:

"Section 13.9.(d) Each plan shall be as complete as resources and available information allow. ~~The Department of Environment and Natural Resources shall revise the plan every two years and shall submit the revised plan to the General Assembly no later than March 1 of each odd-numbered year. The Department may issue a supplement to the plan in even-numbered years if significant new information becomes available.~~"

ELIMINATE ANNUAL REPORT ON INFORMAL REVIEW PROCESS FOR AGENCY REVIEW OF ENGINEERING WORK

SECTION 5.10. Sections 29(j) and 29(k) of S.L. 2014-120 are repealed.

CONSOLIDATE REPORTS ON THE COASTAL HABITAT PROTECTION PLAN

SECTION 5.11.(a) G.S. 143B-279.8(e) reads as rewritten:

"(e) The Coastal Resources Commission, the Environmental Management Commission, and the Marine Fisheries Commission shall report to the Joint Legislative Commission on Governmental Operations and the Environmental Review Commission on progress in developing and implementing the Coastal Habitat Protection Plans, including the extent to which the actions of the three commissions are consistent with the Plans, on or before ~~4 September~~September 1 of each ~~year~~year in which any significant revisions to the Plans are made."

SECTION 5.11.(b) G.S. 143B-279.8(f) is repealed.

CONSOLIDATE AND REDUCE FREQUENCY OF REPORTS ON COST AND IMPLEMENTATION OF ENVIRONMENTAL PERMITTING PROGRAMS

SECTION 5.12.(a) G.S. 143-215.3A(c) reads as rewritten:

"(c) The Department shall report to the Environmental Review Commission and the Fiscal Research Division on the cost of the State's environmental permitting programs contained within the Department on or before January 1 ~~November~~ of each odd-numbered year. The report shall include, but is not limited to, fees set and established under this Article, fees collected under this Article, revenues received from other sources for environmental permitting and compliance programs, changes made in the fee schedule since the last report, anticipated revenues from all other sources, interest earned and any other information requested by the General Assembly. The Department shall submit this report with the report required by G.S. 143B-279.17 as a single report."

SECTION 5.12.(b) G.S. 143B-279.17 reads as rewritten:

"§ 143B-279.17. Tracking and report on permit processing times.

The Department of Environmental Quality shall track the time required to process all permit applications in the One-Stop for Certain Environmental Permits Programs established by G.S. 143B-279.12 and the Express Permit and Certification Reviews established by G.S. 143B-279.13 that are received by the Department. The processing time tracked shall include (i) the total processing time from when an initial permit application is received to issuance or denial of the permit and (ii) the processing time from when a complete permit application is received to issuance or denial of the permit. No later than ~~March~~January 1 of each odd-numbered year, the Department shall report to the Fiscal Research Division of the General Assembly and the Environmental Review Commission on the permit processing times required to be tracked

pursuant to this section. The Department shall submit this report with the report required by G.S. 143-215.3A(c) as a single report."

SECTION 5.12.(c) The first combined report required by subsections (a) and (b) of this section shall be submitted to the Environmental Review Commission and the Fiscal Research Division no later than January 1, 2017.

CONSOLIDATE AND REDUCE FREQUENCY OF REPORTS BY THE ENVIRONMENTAL MANAGEMENT COMMISSION

SECTION 5.13.(a) G.S. 143B-282(b) reads as rewritten:

"(b) The Environmental Management Commission shall submit ~~quarterly~~ written reports as to its operation, activities, programs, and progress to the Environmental Review Commission ~~Commission~~ by January 1 of each year. The Environmental Management Commission shall supplement the written reports required by this subsection with additional written and oral reports as may be requested by the Environmental Review Commission. ~~The Environmental Management Commission shall submit the written reports required by this subsection whether or not the General Assembly is in session at the time the report is due.~~"

SECTION 5.13.(b) G.S. 143-215.1(h) reads as rewritten:

"(h) Each applicant for a new permit or the modification of an existing permit issued under subsection (c) of this section shall include with the application: (i) the extent to which the new or modified facility is constructed in whole or in part with funds provided or administered by the State or a unit of local government, (ii) the impact of the facility on water quality, and (iii) whether there are cost-effective alternative technologies that will achieve greater protection of water quality. The Commission shall prepare ~~a quarterly~~ an annual summary and analysis of the information provided by applicants pursuant to this subsection. The Commission shall submit the summary and analysis required by this subsection to the Environmental Review Commission (ERC) as a part of each ~~quarterly~~ annual report that the Commission is required to make to the ERC under G.S. 143B-282(b)."

SECTION 5.13.(c) The first combined report required by subsections (a) and (b) of this section shall be submitted to the Environmental Review Commission no later than January 1, 2017.

CONSOLIDATE WASTE MANAGEMENT REPORTS BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY

SECTION 5.14.(a) G.S. 130A-309.06(c) reads as rewritten:

"(c) The Department shall report to the Environmental Review Commission and the Fiscal Research Division on or before ~~15 January~~ January 15 of each year on the status of solid waste management efforts in the State. The report shall include:

- (1) A comprehensive analysis, to be updated in each report, of solid waste generation and disposal in the State projected for the 20-year period beginning on ~~1 July~~ July 1, 1991.
- (2) The total amounts of solid waste recycled and disposed of and the methods of solid waste recycling and disposal used during the calendar year prior to the year in which the report is published.
- (3) An evaluation of the development and implementation of local solid waste management programs and county and municipal recycling programs.
- (4) An evaluation of the success of each county or group of counties in meeting the municipal solid waste reduction goal established in G.S. 130A-309.04.
- (5) Recommendations concerning existing and potential programs for solid waste reduction and recycling that would be appropriate for units of local government and State agencies to implement to meet the requirements of this Part.

- (6) An evaluation of the recycling industry, the markets for recycled materials, the recycling of polystyrene, and the success of State, local, and private industry efforts to enhance the markets for these materials.
- (7) Recommendations to the Governor and the Environmental Review Commission to improve the management and recycling of solid waste in the State, including any proposed legislation to implement the recommendations.
- (8) A description of the condition of the Solid Waste Management Trust Fund and the use of all funds allocated from the Solid Waste Management Trust Fund, as required by G.S. 130A-309.12(c).
- (9) A description of the review and revision of bid procedures and the purchase and use of reusable, refillable, repairable, more durable, and less toxic supplies and products by both the Department of Administration and the Department of Transportation, as required by G.S. 130A-309.14(a1)(3).
- (10) A description of the implementation of the North Carolina Scrap Tire Disposal Act that includes the amount of revenue used for grants and to clean up nuisance tire collection under the provisions of G.S. 130A-309.64.
- (11) A description of the management of white goods in the State, as required by G.S. 130A-309.85.
- (12) A summary of the report by the Department of Transportation on the amounts and types of recycled materials that were specified or used in contracts that were entered into by the Department of Transportation during the previous fiscal year, as required by G.S. 136-28.8(g).
- (13) Repealed by Session Laws 2010-142, s. 1, effective July 22, 2010.
- (14) (Expiring October 1, 2023) A description of the activities related to the management of abandoned manufactured homes in the State in accordance with G.S. 130A-117, the beginning and ending balances in the Solid Waste Management Trust Fund for the reporting period and the amount of funds used, itemized by county, for grants made under Part 2F of Article 9 of Chapter 130A of the General Statutes.
- (15) A report on the recycling of discarded computer equipment and televisions in the State pursuant to G.S. 130A-309.140(a).
- (16) An evaluation of the Brownfields Property Reuse Act pursuant to G.S. 130A-310.40.
- (17) A report on the Inactive Hazardous Waste Response Act of 1987 pursuant to G.S. 130A-310.10(a).
- (18) A report on the Dry-Cleaning Solvent Cleanup Act of 1997 pursuant to G.S. 143-215.104U(a) until such time as the act expires pursuant to Part 6 of Article 21A of Chapter 143 of the General Statutes.
- (19) A report on the implementation and cost of the hazardous waste management program pursuant to G.S. 130A-294(i)."

SECTION 5.14.(b) G.S. 130A-309.140(a) reads as rewritten:

"(a) ~~No later than January 15 of each year, the Department shall submit a report on The Department shall include in the status of solid waste management report required to be submitted on or before January 15 of each year pursuant to G.S. 130A-309.06(c), a report on the recycling of discarded computer equipment and televisions in the State under this Part to the Environmental Review Commission.~~ Part. 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."

SECTION 5.14.(c) G.S. 130A-310.40 reads as rewritten:

1 **"§ 130A-310.40. Legislative reports.**

2 The Department shall ~~prepare and submit to the Environmental Review Commission,~~
3 ~~concurrently with the report on the Inactive Hazardous Sites Response Act of 1987 required under~~
4 ~~G.S. 130A-310.10, include in the status of solid waste management report required to be~~
5 ~~submitted on or before January 15 of each year pursuant to G.S. 130A-309.06(c), an evaluation of~~
6 ~~the effectiveness of this Part in facilitating the remediation and reuse of existing industrial and~~
7 ~~commercial properties. This evaluation shall include any recommendations for additional~~
8 ~~incentives or changes, if needed, to improve the effectiveness of this Part in addressing such~~
9 ~~properties. This evaluation shall also include a report on receipts by and expenditures from the~~
10 ~~Brownfields Property Reuse Act Implementation Account."~~

11 **SECTION 5.14.(d)** G.S. 130A-310.10(a) reads as rewritten:

12 "(a) The Secretary shall include in the status of solid waste management report required to
13 be submitted on or before January 15 of each year pursuant to G.S. 130A-309.06(c), a report on
14 inactive hazardous sites to the Joint Legislative Commission on Governmental Operations, the
15 Environmental Review Commission, and the Fiscal Research Division on or before October 1 of
16 each year. The report shall include that includes at least the following:

- 17 (1) The Inactive Hazardous Waste Sites Priority List.
- 18 (2) A list of remedial action plans requiring State funding through the Inactive
19 Hazardous Sites Cleanup Fund.
- 20 (3) A comprehensive budget to implement these remedial action plans and the
21 adequacy of the Inactive Hazardous Sites Cleanup Fund to fund the cost of said
22 plans.
- 23 (4) A prioritized list of sites that are eligible for remedial action under
24 CERCLA/SARA together with recommended remedial action plans and a
25 comprehensive budget to implement such plans. The budget for implementing a
26 remedial action plan under CERCLA/SARA shall include a statement as to any
27 appropriation that may be necessary to pay the State's share of such plan.
- 28 (5) A list of sites and remedial action plans undergoing voluntary cleanup with
29 Departmental approval.
- 30 (6) A list of sites and remedial action plans that may require State funding, a
31 comprehensive budget if implementation of these possible remedial action
32 plans is required, and the adequacy of the Inactive Hazardous Sites Cleanup
33 Fund to fund the possible costs of said plans.
- 34 (7) A list of sites that pose an imminent hazard.
- 35 (8) A comprehensive budget to develop and implement remedial action plans for
36 sites that pose imminent hazards and that may require State funding, and the
37 adequacy of the Inactive Hazardous Sites Cleanup Fund.
- 38 (8a) Repealed by Session Laws 2015-286, s. 4.7(f), effective October 22, 2015.
- 39 (9) Any other information requested by the General Assembly or the
40 Environmental Review Commission."

41 **SECTION 5.14.(e)** G.S. 143-215.104U reads as rewritten:

42 **"§ 143-215.104U. Reporting requirements.**

43 (a) The Secretary shall ~~present an annual report to the Environmental Review Commission~~
44 ~~that shall include~~ include in the status of solid waste management report required to be submitted
45 on or before January 15 of each year pursuant to G.S. 130A-309.06(c), a report on at least the
46 following:

- 47 (1) A list of all dry-cleaning solvent contamination reported to the Department.
- 48 (2) A list of all facilities and abandoned sites certified by the Commission and the
49 status of contamination associated with each facility or abandoned site.

- 1 (3) An estimate of the cost of assessment and remediation required in connection
- 2 with facilities or abandoned sites certified by the Commission and an estimate
- 3 of assessment and remediation costs expected to be paid from the Fund.
- 4 (4) A statement of receipts and disbursements for the Fund.
- 5 (5) A statement of all claims against the Fund, including claims paid, claims
- 6 denied, pending claims, anticipated claims, and any other obligations.
- 7 (6) The adequacy of the Fund to carry out the purposes of this Part together with
- 8 any recommendations as to measures that may be necessary to assure the
- 9 continued solvency of the Fund.

10 (b) ~~The Secretary shall make the annual report required by this section on or before 1~~
11 ~~October of each year."~~

12 **SECTION 5.14.(f)** G.S. 130A-294(i) reads as rewritten:

13 "(i) ~~The Department shall report to Fiscal Research Division of the General Assembly, the~~
14 ~~Senate Appropriations Subcommittee on Natural and Economic Resources, the House~~
15 ~~Appropriations Subcommittee on Natural and Economic Resources, and the Environmental~~
16 ~~Review Commission on or before January 1 of each year include in the status of solid waste~~
17 management report required to be submitted on or before January 15 of each year pursuant to
18 G.S. 130A-309.06(c), a report on the implementation and cost of the hazardous waste management
19 program. The report shall include an evaluation of how well the State and private parties are
20 managing and cleaning up hazardous waste. The report shall also include recommendations to the
21 Governor, State agencies, and the General Assembly on ways to: improve waste management;
22 reduce the amount of waste generated; maximize resource recovery, reuse, and conservation; and
23 minimize the amount of hazardous waste which must be disposed of. The report shall include
24 beginning and ending balances in the Hazardous Waste Management Account for the reporting
25 period, total fees collected pursuant to G.S. 130A-294.1, anticipated revenue from all sources,
26 total expenditures by activities and categories for the hazardous waste management program, any
27 recommended adjustments in annual and tonnage fees which may be necessary to assure the
28 continued availability of funds sufficient to pay the State's share of the cost of the hazardous waste
29 management program, and any other information requested by the General Assembly. In
30 recommending adjustments in annual and tonnage fees, the Department may propose fees for
31 hazardous waste generators, and for hazardous waste treatment facilities that treat waste generated
32 on site, which are designed to encourage reductions in the volume or quantity and toxicity of
33 hazardous waste. The report shall also include a description of activities undertaken to implement
34 the resident inspectors program established under G.S. 130A-295.02. In addition, the report shall
35 include an annual update on the mercury switch removal program that shall include, at a
36 minimum, all of the following:

- 37 (1) A detailed description of the mercury recovery performance ratio achieved by
- 38 the mercury switch removal program.
- 39 (2) A detailed description of the mercury switch collection system developed and
- 40 implemented by vehicle manufacturers in accordance with the NVMSRP.
- 41 (3) In the event that a mercury recovery performance ratio of at least 0.90 of the
- 42 national mercury recovery performance ratio as reported by the NVMSRP is
- 43 not achieved, a description of additional or alternative actions that may be
- 44 implemented to improve the mercury switch removal program.
- 45 (4) The number of mercury switches collected and a description of how the
- 46 mercury switches were managed.
- 47 (5) A statement that details the costs required to implement the mercury switch
- 48 removal program, including a summary of receipts and disbursements from the
- 49 Mercury Switch Removal Account."

1 **SECTION 5.14.(g)** The first combined report required by subsections (a) through (f)
2 of this section shall be submitted to the Environmental Review Commission and the Fiscal
3 Research Division no later than January 15, 2017.

4
5 **CONSOLIDATE SEDIMENTATION POLLUTION CONTROL ACT AND**
6 **STORMWATER REPORTS**

7 **SECTION 5.15.(a)** G.S. 113A-67 reads as rewritten:

8 "**§ 113A-67. Annual Report.**

9 The Department shall report to the Environmental Review Commission on the implementation
10 of this Article on or before ~~1 October~~October 1 of each year. The Department shall include in the
11 report an analysis of how the implementation of the Sedimentation Pollution Control Act of 1973
12 is affecting activities that contribute to the sedimentation of streams, rivers, lakes, and other waters
13 of the State. The report shall also include a review of the effectiveness of local erosion and
14 sedimentation control programs. The report shall be submitted to the Environmental Review
15 Commission with the report required by G.S. 143-214.7(e) as a single report."

16 **SECTION 5.15.(b)** G.S. 143-214.7(e) reads as rewritten:

17 "(e) On or before October 1 of each year, the ~~Commission~~Department shall report to the
18 Environmental Review Commission on the implementation of this section, including the status of
19 any stormwater control programs administered by State agencies and units of local government.
20 The status report shall include information on any integration of stormwater capture and reuse into
21 stormwater control programs administered by State agencies and units of local government. The
22 report shall be submitted to the Environmental Review Commission with the report required by
23 G.S. 113A-67 as a single report."

24 **SECTION 5.15.(c)** The first combined report required by subsections (a) and (b) of
25 this section shall be submitted to the Environmental Review Commission no later than October 1,
26 2016.

27
28 **CONSOLIDATE VARIOUS WATER RESOURCES AND WATER QUALITY REPORTS**
29 **BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY**

30 **SECTION 5.16.(a)** G.S. 143-355(n) is repealed.

31 **SECTION 5.16.(b)** G.S. 143-355(o)(9) is repealed.

32 **SECTION 5.16.(c)** G.S. 143-355 is amended by adding a new subsection to read:

33 "**(p) Report.** – The Department of Environmental Quality shall report to the Environmental
34 Review Commission on the implementation of this section, including the development of the State
35 water supply plan and the development of basinwide hydrologic models, no later than November 1
36 of each year. The Department shall submit the report required by this subsection with the report on
37 basinwide water quality management plans required by G.S. 143-215.8B(d) as a single report."

38 **SECTION 5.16.(d)** G.S. 143-215.8B(d) reads as rewritten:

39 "(d) ~~The As~~ a part of the report required pursuant to G.S. 143-355(p), the Commission and
40 the Department shall each report on or before ~~1 October~~November 1 of each year on an annual
41 basis to the Environmental Review Commission on the progress in developing and implementing
42 basinwide water quality management plans and on increasing public involvement and public
43 education in connection with basinwide water quality management planning. The report to the
44 Environmental Review Commission by the Department shall include a written statement as to all
45 concentrations of heavy metals and other pollutants in the surface waters of the State that are
46 identified in the course of preparing or revising the basinwide water quality management plans."

47 **SECTION 5.16.(e)** The first combined report required by subsections (c) and (d) of
48 this section shall be submitted to the Environmental Review Commission no later than November
49 1, 2016.

**CONSOLIDATE REPORTS BY THE DIVISION OF WATER INFRASTRUCTURE OF
THE DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE STATE WATER
INFRASTRUCTURE AUTHORITY**

SECTION 5.17.(a) 159G-26(a) reads as rewritten:

"(a) Requirement. – The Department ~~must~~ shall publish a report each year on the accounts in the Water Infrastructure Fund that are administered by the Division of Water Infrastructure. The report ~~must~~ shall be published by 4-November 1 of each year and cover the preceding fiscal year. The Department ~~must~~ shall make the report available to the public and ~~must~~ shall give a copy of the report to the Environmental Review ~~Commission and the~~ Commission, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research ~~Division of the Legislative Services Commission~~ Division with the report required by G.S. 159G-72 as a single report."

SECTION 5.17.(b) G.S. 159G-72 reads as rewritten:

"§ 159G-72. State Water Infrastructure Authority; reports.

No later than November 1 of each year, the Authority shall submit a report of its activity and findings, including any recommendations or legislative proposals, to the ~~Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division of the Legislative Services Commission~~ Environmental Review Commission, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division with the report required by G.S. 159G-26(a) as a single report."

SECTION 5.17.(c) The first combined report required by subsections (a) and (b) of this section shall be submitted to the Environmental Review Commission, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division no later than November 1, 2016.

**CONSOLIDATE REPORTS BY SOIL AND WATER CONSERVATION COMMISSION
AND THE DIVISION OF SOIL AND WATER CONSERVATION OF THE
DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

SECTION 5.18.(a) G.S. 106-850(e) reads as rewritten:

"(e) The Soil and Water Conservation Commission shall report on or before ~~31-January 31~~ of each year to the Environmental Review Commission, the Department of Agriculture and Consumer Services, and the Fiscal Research Division. This report shall include a list of projects that received State funding pursuant to the program, the results of the evaluations conducted pursuant to subdivision (7) of subsection (b) of this section, findings regarding the effectiveness of each of these projects to accomplish its primary purpose, and any recommendations to assure that State funding is used in the most cost-effective manner and accomplishes the greatest improvement in water quality. This report shall be submitted to the Environmental Review Commission and the Fiscal Research Division with the reports required by G.S. 106-860(e) and G.S. 139-60(d) as a single report."

SECTION 5.18.(b) G.S. 106-860(e) reads as rewritten:

"(e) Report. – The Soil and Water Conservation Commission shall report no later than ~~31~~ January 31 of each year to the Environmental Review Commission, the Department of Agriculture and Consumer Services, and the Fiscal Research Division. The report shall include a summary of projects that received State funding pursuant to the Program, the results of the evaluation conducted pursuant to subdivision (5) of subsection (b) of this section, findings regarding the effectiveness of each project to accomplish its primary purpose, and any recommendations to assure that State funding is used in the most cost-effective manner and accomplishes the greatest improvement in water quality. This report shall be submitted to the Environmental Review Commission and the Fiscal Research Division as a part of the report required by G.S. 106-850(e)."

SECTION 5.18.(c) G.S. 139-60(d) reads as rewritten:

"(d) Report. – No later than January 31 of each year, the Division of Soil and Water Conservation of the Department of Agriculture and Consumer Services shall prepare a comprehensive report on the implementation of subsections (a) through (c) of this section. The report shall be submitted to the Environmental Review Commission and the Fiscal Research Division as a part of the report required by G.S. 106-850(e)."

SECTION 5.18.(d) The first combined report required by subsections (a) through (c) of this section shall be submitted to the Environmental Review Commission and the Fiscal Research Division no later than January 31, 2017.

**DECREASE REPORTING FREQUENCY ON TERMINAL GROINS PILOT PROJECT
BY THE COASTAL RESOURCES COMMISSION**

SECTION 5.19. G.S. 113A-115.1(i) reads as rewritten:

"(i) No later than ~~September 1 of each year~~, January 1, 2017, and every five years thereafter, the Coastal Resources Commission shall report to the Environmental Review Commission on the implementation of this section. The report shall provide a detailed description of each proposed and permitted terminal groin and its accompanying beach fill project, including the information required to be submitted pursuant to subsection (e) of this section. For each permitted terminal groin and its accompanying beach fill project, the report shall also provide all of the following:

- (1) The findings of the Commission required pursuant to subsection (f) of this section.
- (2) The status of construction and maintenance of the terminal groin and its accompanying beach fill project, including the status of the implementation of the plan for construction and maintenance and the inlet management plan.
- (3) A description and assessment of the benefits of the terminal groin and its accompanying beach fill project, if any.
- (4) A description and assessment of the adverse impacts of the terminal groin and its accompanying beach fill project, if any, including a description and assessment of any mitigation measures implemented to address adverse impacts."

**DECREASE REPORTING FREQUENCY ON PARKS SYSTEM PLAN BY THE
DEPARTMENT OF NATURAL AND CULTURAL RESOURCES**

SECTION 5.20. G.S. 143B-135.48(d) reads as rewritten:

"(d) No later than October ~~1 of each year~~, 1, 2016, and every five years thereafter, the Department shall submit electronically the State Parks System Plan to the Environmental Review Commission, ~~the Senate and the House of Representatives appropriations committees with jurisdiction over natural and cultural resources~~, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division. Concurrently, the Department shall submit a summary of each change to the Plan that was made during the previous ~~fiscal year~~, five fiscal years."

**REDIRECT INTERAGENCY REPORT ON SUPERFUND COST SHARE TO THE ANER
OVERSIGHT COMMITTEE**

SECTION 5.21. Section 15.6 of S.L. 1999-237 reads as rewritten:

"Section 15.6.(a) The Department of ~~Environment and Natural Resources~~ Environmental Quality may use available funds, with the approval of the Office of State Budget and Management, to provide the ten percent (10%) cost share required for Superfund cleanups on the National Priority List sites, to pay the operating and maintenance costs associated with these Superfund cleanups, and for the cleanup of priority inactive hazardous substance or waste disposal

1 sites under Part 3 of Article 9 of Chapter 130A of the General Statutes. These funds may be in
2 addition to those appropriated for this purpose.

3 "Section 15.6.(b) The Department of ~~Environment and Natural Resources~~Environmental
4 Quality and the Office of State Budget and Management shall report to the ~~Environmental Review~~
5 ~~Commission and the Joint Legislative Commission on Governmental Operations~~Joint Legislative
6 Oversight Committee on Agriculture and Natural and Economic Resources the amount and the
7 source of the funds used pursuant to subsection (a) of this section within 30 days of the
8 expenditure of these funds."
9

10 **REDIRECT REPORT ON EXPENDITURES FROM BERNARD ALLEN EMERGENCY**
11 **DRINKING WATER FUND TO ANER OVERSIGHT COMMITTEE**

12 **SECTION 5.22.** G.S. 87-98(e) reads as rewritten:

13 "(e) The Department, in consultation with the Commission for Public Health and local
14 health departments, shall report no later than October 1 of each year to the ~~Environmental Review~~
15 ~~Commission, the House of Representatives and Senate Appropriations Subcommittees on Natural~~
16 Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and
17 the Fiscal Research Division of the General Assembly on the implementation of this section. The
18 report shall include the purpose and amount of all expenditures from the Fund during the prior
19 fiscal year, a discussion of the benefits and deficiencies realized as a result of the section, and may
20 also include recommendations for any legislative action."
21

22 **REDIRECT REPORT ON PARKS AND RECREATION TRUST FUND TO THE ANER**
23 **OVERSIGHT COMMITTEE**

24 **SECTION 5.23.** G.S. 143B-135.56(f) reads as rewritten:

25 "(f) Reports. – The North Carolina Parks and Recreation Authority shall report no later
26 than October 1 of each year to the ~~Joint Legislative Commission on Governmental Operations, the~~
27 ~~House and Senate Appropriations Subcommittees on Natural and Economic Resources, Oversight~~
28 Committee on Agriculture and Natural and Economic Resources, the Fiscal Research Division,
29 and the Environmental Review Commission on allocations from the Trust Fund from the prior
30 fiscal year. For funds allocated from the Trust Fund under subsection (c) of this section, this report
31 shall include the operating expenses determined under subdivisions (1) and (2) of subsection (e) of
32 this section."
33

34 **PART VI. SEVERABILITY CLAUSE AND EFFECTIVE DATE**
35

36 **SECTION 6.1.** If any section or provision of this act is declared unconstitutional or
37 invalid by the courts, it does not affect the validity of this act as a whole or any part other than the
38 part declared to be unconstitutional or invalid.

39 **SECTION 6.2.** Except as otherwise provided, this act is effective when it becomes
40 law.



HOUSE BILL 169: Regulatory Reduction Act of 2016.

2016-2017 General Assembly

Committee: Senate Rules and Operations of the Senate
Introduced by:
Analysis of: Fourth Edition

Date: June 7, 2016
Prepared by: Jeff Hudson,
Jennifer McGinnis,
Jennifer Mundt,
Chris Saunders, and
Layla Cummings
Legislative Staff

SUMMARY: *House Bill 169 would amend a number State laws related to business regulation; State and local government regulation; and agricultural, energy, environmental, and natural resources regulation*

BILL ANALYSIS:

PART I. ADMINISTRATIVE REFORMS

RESTRICTIONS ON RULES WITH SUBSTANTIAL FINANCIAL COSTS

SECTION 1.1. would place the following restrictions on rules that would have a substantial projected financial cost:

- Prohibit an agency from adopting a rule or set of rules with a projected aggregate financial cost equal to or greater than one hundred million dollars during any five-year period.
- Place the following requirements on an agency adopting a rule or set of rules with a projected aggregate financial cost equal to or greater than ten million dollars during any five-year period.
 - If the agency is a board or commission, the rule or set of rules must be approved by at least sixty percent of those voting.
 - If the agency is headed by a member of the Council of State, the Council of State member must sign a certification indicating the review and support of the rule or set of rules.
 - For other agencies, the Governor must sign a certification indicating the review and support of the rule or set of rules.
- Provide that a rule or set of rules with a projected aggregate financial cost equal to or greater than ten million dollars during any five-year period is automatically subject to legislative review as if ten letters of objection had been received.

SECTION 1.2. would prohibit an agency from incorporating all or part of a code, standard, or regulation adopted by the federal government, unless the agency establishes a procedure by which any change by the federal government is reviewed and approved by the agency within 30 days of the change.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House Bill 169

Page 2

SECTION 1.3. would provide that rules adopted by an agency authorized to implement and enforce State and federal environmental laws that impose a more restrictive standard, limitation, or requirement than imposed by federal law and that are adopted to address a serious and unforeseen threat to public health, safety, or welfare are subject to the same limitations and legislative review requirements set out in Section 1.1 of the bill that apply to a rule or set of rules with a projected aggregate financial cost equal to or greater than ten million dollars during any five-year period.

SECTION 1.4. would make clarifying and organizational changes to two sections of the statute governing the periodic review and expiration of rules process.

SECTION 1.5. would provide that the requirements of Sections 1.1, 1.3, and 1.4 of the bill apply to rules adopted or undergoing the periodic review and expiration of rules process on or after that date.

PART II. BUSINESS REGULATION

EXEMPT CERTAIN BUILDING CODE CLASSIFICATIONS FROM ENERGY EFFICIENCY STANDARDS

Section 2.1. would require the Building Code Council to exempt the following use and occupancy classifications from the requirements of the Energy Conservation Code: Factory Group F, Storage Group S, and Utility and Miscellaneous Group U.

STREAMLINE MORTGAGE NOTICE REQUIREMENTS

Section 2.2. would remove a duplicative notice requirement required to be made by a servicer of a home loan. The statement mailing requirement and borrower notification requirement are satisfied when the person complies with the federal disclosure requirements.

AUTHORIZE NORTH CAROLINA DISTILLERIES TO BETTER COMPETE NATIONALLY AND INTERNATIONALLY

Section 2.3.(a) would authorize the holder of a distillery permit to sell spirituous liquor in closed containers, at wholesale or retail, for delivery outside the State. When sold for delivery outside the State, the retail price would be the distiller's price, and would not include the additional markups and charges that make up the uniform State price for spirituous liquor.

This section would also allow distilleries to sell one bottle per year of each product the distillery produces to customers who take a tour of the distillery. Under current law, touring customers are limited to purchasing only one bottle per year of any product the distillery produces.

This section would become effective July 1, 2016.

PART III. STATE AND LOCAL GOVERNMENT REGULATION

DIRECT THE MEDICAL CARE COMMISSION TO ADOPT THE RECOMMENDATIONS OF THE AMERICAN SOCIETY OF HEALTHCARE ENGINEERS FACILITY GUIDELINES INSTITUTE

Sections 3.1.(a) through 3.1.(e) would:

- Direct the Medical Care Commission to repeal a suite of rules that regulate licensing of hospitals pertaining to physical plant, general requirements, and construction requirements (Hospital Facilities Rules) by December 31, 2016, and to replace those particular rules with temporary

House Bill 169

Page 3

(and subsequently permanent) rules by incorporating, by reference, all the applicable standards, rules, and requirements of the most current edition of the American Society for Healthcare Engineering's Facility Guidelines Institute *Guidelines for Design and Construction of Hospitals and Outpatient Facilities* (Guidelines).

- Provide that the rules adopted to replace the Hospital Facilities Rules with the Guidelines would be exempt from the provisions of the Administrative Procedure Act (Act) under Chapter 150B of the General Statutes that require the preparation of fiscal notes.
- Provide that until the Hospital Facilities Rules are repealed and replaced by the Guidelines, the Hospital Facilities Rules would not be subject to the statutory periodic rules review required by the Act.

ELIMINATE EFFICIENCY STANDARDS HAVING BEEN MET OR EXCEEDED BY STATE BUILDINGS

Section 3.2.(a) would repeal G.S. 143-64.12 that:

- Directs the State Energy Office of the Department of Environmental Quality to develop a comprehensive program to manage energy, water, and other utility use for State agencies and State institutions of higher learning.
- Directs the Department of Administration (Department) to develop and implement policies to ensure that State purchasing practices improve efficiency regarding energy, water, and other utility use and take the cost of the product over the economic life of the product into consideration.
- Requires the Department to conduct an energy audit of each State agency or State institutions of higher learning once every 5 years.

Section 3.2.(b) would make a conforming change.

REPEAL CERTAIN EDUCATIONAL TESTING LAWS

Section 3.3. would remove a provision from an education testing statute that encourages local administrative units to continue to develop local testing programs designed to diagnose student needs.

PART IV. AGRICULTURE, ENERGY, ENVIRONMENTAL, AND NATURAL RESOURCES REGULATION

REPEAL RECYCLING REQUIREMENTS FOR DISCARDED COMPUTER EQUIPMENT AND TELEVISIONS

Section 4.1.(a) would repeal requirements for computer and television manufacturers to collect and recycle their products discarded by consumers in the State.

Section 4.1.(b) would repeal a ban on disposal of computers in landfills.

Section 4.1.(c) would repeal a ban on disposal of televisions in landfills.

Section 4.1.(d) would repeal a ban on disposal of computers by incineration in an incinerator for which a solid waste permit is required.

Section 4.1.(e) would repeal a ban on disposal of televisions by incineration in an incinerator for which a solid waste permit is required.

Section 4.1.(f) would repeal a reporting requirement for local governments regarding permanent recycling programs for discarded computer equipment and televisions.

House Bill 169

Page 4

REPEAL YARD WASTE PERMITTING REQUIREMENTS

Section 4.2.(a) would define "yard waste" as land-clearing debris, including stumps, limbs, leaves, grass, and untreated wood, and yard trash, including brush, grass, tree limbs, and similar vegetative material.

Section 4.2.(b) would provide that yard waste diverted from the waste stream or collected as source separated material would not be subject to a solid waste permit for transfer, treatment, processing, storage, or disposal in a permitted solid waste management facility. The provision, however, would not limit the authority of any local government to manage yard waste. Yard waste as defined under the bill would include land-clearing debris, including stumps, limbs, leaves, grass, and untreated wood, and yard trash including brush, grass, tree limbs, and similar vegetative material.

Pursuant to provisions in the Administrative Code, facilities that accept yard waste could, depending on the type and amount of material accepted and the size of the facility, be required to obtain a solid waste permit for a treatment and processing facility, a land clearing and inert debris landfill, or could be required to file a Yard Waste Notification.

Section 4.2.(c) would provide that the section becomes effective July 1, 2017, and would apply to the transfer, treatment, processing, storage, or disposal of yard waste occurring on or after that date.

ELIMINATE OUTDATED PROVISIONS OF THE COASTAL AREA MANAGEMENT ACT

Section 4.3.(a) would repeal the statute that originally required coastal counties to develop a land-use plan or directed the Coastal Resources Commission to prepare and adopt a land-use plan for a county that failed to do so.

Section 4.3.(b) would repeal a conforming statute that authorizes the Secretary of Environmental Quality to make grants to local government units to assist in the development of local plans.

REPEAL PASTURE POINTS PROVISION

Section 4.4. would repeal a 2001 provision that directed the Soil and Water Conservation Commission to approve a point system applicable to pasture management practices no later than September 1, 2002. The point system was never implemented.

REPEAL RESTRICTION ON PET TURTLE SALES

Section 4.5. would direct the Commission for Public Health to repeal two rules prohibiting the sale of all turtles for purposes other than scientific, educational, or food purposes. The Food and Drug Administration prohibits the sale of turtles with a carapace length of less than four inches as pets (21 C.F.R. 1240.62).

LIMIT MOTOR VEHICLE INSPECTIONS

Section 4.6.(a) would remove the following counties from the list of counties in which motor vehicle emissions inspections are required: Burke, Cleveland, Rutherford, Stokes, Surry, and Wilkes.

Section 4.6.(b) would require the Department of Environmental Quality (DEQ) to prepare and submit a revised State Implementation Plan based on the removal of counties from the emissions inspection program to the United States Environmental Protection Agency (USEPA) by December 31, 2016.

House Bill 169

Page 5

Section 4.6.(c) would provide that the removal of counties from the emissions inspection program would become effective on the later of July 1, 2017, or the first day of a month that is 60 days after DEQ certifies to the Revisor of Statutes that USEPA has approved the revised State Implementation Plan.

PART V. ELIMINATE, CONSOLIDATE, AND AMEND REPORTS TO THE ENVIRONMENTAL REVIEW COMMISSION

Sections 5.1 through 5.10 would eliminate the following reports:

- Cost of implementing the Mining Act of 1971 by the Department of Environmental Quality (DEQ).
- The implementation of the sustainable energy efficient buildings program by the Department of Administration (DOA).
- Systemwide municipal and domestic wastewater collection system permit program by the Environmental Management Commission (EMC).
- Reducing vehicle emissions from state employee and private sector vehicles by the Department of Transportation (DOT).
- Purchase of new motor vehicles and fuel savings by DOA.
- State of the Environment Report by DEQ.
- Fish kill activity by DEQ.
- Developing engineering standards governing municipal and domestic systems to allow regional interconnection by the EMC.
- Implementation of the North Carolina Beach and Inlet Management Plan by DEQ.
- Informal review process for agency review of engineering work.

Sections 5.11 through 5.18 would make consolidate and make other changes to the following reports:

- The Coastal Resources Commission, EMC, and Marine Fisheries Commission report on progress in developing and implementing the Coastal Habitat Protection Plans would be consolidated with the report requiring DEQ to report on any significant changes in the Plans.
- DEQ's report on the cost of the State's environmental permitting programs would be consolidated with the report on the time required to process all permit applications in the One-Stop for Certain Environmental Permits Programs. The annual reports would become due biennially with the first combined report due no later than January 1, 2017.
- The EMC's report on permits and renewals for facilities discharging to surface waters would be consolidated with the report on the operation and activities of the Commission. The quarterly reports would become due annually with the first combined report due no later than January 1, 2017.
- DEQ's report on the status of solid waste management would be consolidated with the reports on recycling of computer equipment and televisions, the Brownfields Property Reuse Act, the Inactive Hazardous Waste Response Act of 1987, the Dry-Cleaning Solvent Cleanup Act of

House Bill 169

Page 6

1997, and the implementation and cost of the hazardous waste management program. The combined report would be due annually with the first report due no later than January 15, 2017.

- DEQ's report on the Sedimentation Pollution Control Act of 1973 would be consolidated with EMC's report on stormwater control. The first annual combined report would be due no later than October 1, 2016.
- DEQ's reports on the development of the State water supply plan and the development of basinwide hydrological models would be consolidated with the report on basinwide water quality management submitted by the EMC and DEQ. The first annual combined report would be due no later than November 1, 2016.
- DEQ's report on accounts in the Water Infrastructure Fund would be consolidated with the State Water Infrastructure Authority's reports of its activity and findings. The first annual combined report would be due no later than October 1, 2016 and the combined report would also be received by the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources (ANER Oversight Committee) and the Fiscal Research Division.
- The Soil and Water Conservation Commission's reports on the Agriculture Cost Share Program for Nonpoint Source Pollution Control Program and the Community Conservation and Assistance Program would be consolidated with the comprehensive report on the Agricultural Water Resources Assistance Program by the Division of Soil and Water Conservation of the Department of Agriculture and Consumer Services. The first annual combined report would be due no later than January 31, 2017.

Sections 5.19 through 5.23 would make the following changes to reports:

- Decrease reporting frequency on the terminal groins pilot project by the Coastal Resources Commission from annually to every 5 years.
- Decrease reporting frequency on the parks system plan by the Department of Natural and Cultural Resources from annually to every five years and add the ANER Oversight Committee as a recipient of the report.
- Redirect interagency report on superfund cost share to the ANER Oversight Committee.
- Redirect reports on expenditures from the Bernard Allen Emergency Drinking Water Fund to the ANER Oversight Committee.
- Redirect report on the Parks and Recreation Trust Fund to the ANER Oversight Committee.

PART VI. SEVERABILITY CLAUSE AND EFFECTIVE DATE

Section 6.1. would add a severability clause to the bill.

Section 6.2. would provide that the bill would be effective when it becomes law, except as otherwise specified.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 169

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

Page 1 of 1

H169-ATA-38 [v.4]

Amends Title [NO]
Fourth Edition

Date June 7, 2016

Senator Wade

1 moves to amend the bill on page 2, line 17,
2 by replacing the term "30 days" with "120 days", and
3

4
5 on page 9, between lines 11 and 12,
6 by inserting between the lines:
7

8 "SECTION 4.3.(c) Subsection (b) of this section becomes effective January 1, 2017."

SIGNED

Franky Wade

Amendment Sponsor

SIGNED

[Signature]

Committee Chair of Senate Committee Amendment

ADOPTED

✓

FAILED

TABLED



* H 1 6 9 - A T A - 3 8 - V - 4 *

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

1

HOUSE BILL 161

Short Title: Adopt State Cat. (Public)

Sponsors: Representatives Richardson and Glazier (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Wildlife Resources, if favorable, Rules, Calendar, and Operations of the House.

March 9, 2015

1 A BILL TO BE ENTITLED
2 AN ACT ADOPTING THE BOBCAT AS THE OFFICIAL STATE CAT OF THE STATE OF
3 NORTH CAROLINA.

4 Whereas, the bobcat is a member of the North American cat family and is found
5 throughout North Carolina, especially in the wooded habitats of the coastal plain and
6 mountains; and

7 Whereas, the bobcat is easily recognized by its short "bobbed" tail, round face with
8 long hairs that resemble "sideburns," and pointed ears; and

9 Whereas, bobcats are somewhat larger than domestic cats, standing from 20 to
10 almost 30 inches at the shoulder and weighing up to 40 pounds, with males being slightly larger
11 than females; and

12 Whereas, bobcats are carnivores usually preying on rabbits and mice, but are also
13 known to eat other animals, including deer, birds, raccoons, opossums, squirrels, and reptiles;
14 and

15 Whereas, bobcats are active throughout the day, but are most active at dawn and
16 dusk; and

17 Whereas, adopting the bobcat as the official State cat of North Carolina would help
18 bring about awareness of this magnificent and beneficial animal; Now, therefore,
19 The General Assembly of North Carolina enacts:

20 **SECTION 1.** Chapter 145 of the General Statutes is amended by adding the
21 following new section to read:

22 **"§ 145-48. State cat.**

23 **The bobcat is adopted as the official cat of the State of North Carolina."**

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





Senate Pages Attending

COMMITTEE: Rules ROOM: 1027B
DATE: 6-7 TIME: 11 AM

PLEASE PRINT LEGIBLY!!!!!!!!!!!!!!....or else!

	Page Name	Hometown	Sponsoring Senator
①	Jordan Bromfield	Monroe	Sen. Tommy Tucker
②	Katie Sutton	La Grange	Sen. Don Davis
③	Isabella Dyson	Charlotte	sen. Tarte
④	Julia Wakeman	Cornelius	Sen. Tarte
⑤	Savannah Hill	Hookerton	sen. B. Jackson
⑥	Ashley Lopez	Greensboro	Sen. Trudy wade
⑦	Grace Strickland	Elon	Sen. Gunn
⑧	Dylan Melvin	Elizabeth town	Sen. Rabon
9.			
10.			

Do not add names below the grid.

Pages: Present this form to either the Committee Clerk at the meeting or to the Sgt-at-Arms.





**Senate Committee on Rules and
Operations of the Senate**

June 7, 2016

11:00 AM

Room 1027/1128

Senate Sergeant at Arms:

Larry Hancock

Becky Myrick



VISITOR REGISTRATION SHEET

Senate Rules

(Committee Name)

June 7th, 2016

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY
Tom West	NCLH
Elizabeth Hedrick	Smith Moore Leatherwood
Melanie Young	DEQ
Wendy Kelly	Focus on Learning
David Smith	IB
Setl Pehner	NCAR
Angel Sams	WCSP
David Heinen	NC Center for Nonprofits
Sherice Vodick	NC Alliance of YMCAs
Matt Gross	NCPA
J Goodman	CCC



VISITOR REGISTRATION SHEET

Senate Rules

June 7, 2016

Name of Committee

Date

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NAME	FIRM OR AGENCY AND ADDRESS
Batley Beckenwald	NCLM
Erin Wynia	NCLM
Chris McElaine	BP
Amanda Donovan	TSD
E. Manny Crowther Jr	ATTI
Trey Rabon	
Bre Wager	NCLL
Pat Archibald	NCLL
Patryk & Co	p. l. & co.
John DeGiovanna	Brubaker & Assoc
Sarah Bales	" "



VISITOR REGISTRATION SHEET

Senate Rules

June 7, 2016

Name of Committee

Date

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NAME

FIRM OR AGENCY AND ADDRESS

Mike Carute

NCHSA

Steven Hicks

NCHSA

Gregg Thompson

NFIB

Donna Bellard

UNC 86

Tim KENT

NC BEER & WINE

Butch Gunnell's

NC Beer

Allen Hardison

NC SWANA

Jackie Covert

NSS

Amy McConkey

NC Beer

Sarah Collins

NCLM

Lisa Martin

Cap Ad



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June 7, 2016

Name of Committee

Date

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BILL SCOBGIN	TS
Thom Moore	CGA
A. Cost	CAA
Daniel Bone	
Madeline Hurley	Ward and Smith, PA
Whitney Christensen	Ward and Smith, PA
Sarah Hardin	CTZ
Agnes Stevens	ABC Commission
Lori Kroll	Novant Health
DANIEL VAN LIENE	Novant Health
Mia Bailey	Electra Cite



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(Committee Name)

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<u>NAME</u>	<u>FIRM OR AGENCY</u>
Leah Burns	Governor's office
Tom BEAN	EDF, NCSEA
John McMillen	NRPS
Bo Hart	McGuire Woods
Flora Brown	NRULT
Len Arthur	NRULT
Andy Wacha	SA
DANA SIMPSON	SA
REYON MANNING	Jie
Karl Lumar	FA
Caroline Doherty	Governor's office
Tom Friedman	STP
Susanna Birdsong	ACU
Kris Parker	DRNC
L. PAUL JELLEY	LICENSE & THEFT Bureau



VISITOR REGISTRATION SHEET

(Committee Name)

Date

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<u>NAME</u>	<u>FIRM OR AGENCY</u>
<i>[Signature]</i>	NCHRP
David McGowan	NCPC
Carson Thiele	MVA
Josh Lavin	TRC
Andy Chase	KMA
Scott Laster	SSGNC
Cody Harris	NC HA
Betsy McCorkle	SSGNC
Rick Zechin	Williams R/LG
Evelyn Hawthorne	CCUL
Dan Latta	NCSTA
Preston Howard	NICMA
Barbara Pate	MMW
Meredith Frenchmeyer	NCEN



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Name of Committee

June 7, 2016

Date _____

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NAME _____

FIRM OR AGENCY AND ADDRESS

Jesse Way

NCLCV

Baron Allday

NLSB

Adam Pridemore

NCA8A



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Senate Rules

June 7, 2016

Name of Committee

Date

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<i>Philip Bly</i> Darius Little	<i>Bly</i> Little's Executive Consulting Lobbying
Peter Bolac	Nc St. Bar
CHRIS DILLON	WARE
Cassie Gann	Bona Club
Jeff Moore	North State Journal
LAURA PURYEAR	LOLC
KELSEL BIERLY	LOLC
LAURIE ONARIO	LOLC
Alap Miller	ANA
Kara Weishaar	SA



VISITOR REGISTRATION SHEET

Senate Rules

June 7, 2016

Name of Committee

Date

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Ken Melton	K.M.A.
John H. Anderson	MFS
Michelle Frazier	MFS
Robert Hamilton	ABC Commission
Chris Broughton	MWC
Phoebe Landon	mwc
Katy Kingsburg	BP
Erin Brewer	TWC
Steve Brewer	CTL
Erin Jones	TWC
Katie Todd	NCCU



Senate Committee on Rules and Operations of the Senate
Wednesday, June 8, 2016 at 1:00 PM
Room 1027/1128 of the Legislative Building

MINUTES

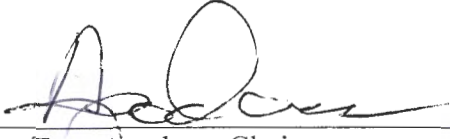
The Senate Committee on Rules and Operations of the Senate met at 1:00 PM on June 8, 2016 in Room 1027/1128 of the Legislative Building. Nine members were present.

Senator Tom Apodaca, Chair, presided.

HB 169 Regulatory Reduction Act of 2016.

Senator Brent Jackson was recognized to explain the bill. Senator Hise moved to adopt the proposed committee substitute (PCS) for discussion and the motion carried. The PCS makes the following changes: deletes to the provision allowing distilleries to sell one bottle of each product annually to consumers who tour the distillery; deletes Section 3.2 which would have repealed G.S. 143-64 and involved Department of Environmental Quality's utility management program for State agencies, the Department of Administration policy development of improved utility purchases, and required energy audits of State agencies every five years; repeals a milk report requirement; and removes Robeson and Stanly counties from a list of counties requiring motor vehicle emissions inspections. Senator McKissick moved for a favorable report and the motion carried. A copy of the PCS and the summary is attached.

The meeting adjourned at 1:18 p.m.



Senator Tom Apodaca, Chair
Presiding



DeAnne Mangum, Committee Clerk



Senate Committee on Rules and Operations of the Senate
Wednesday, June 8, 2016 at 1:00 PM
Room 1027/1128 of the Legislative Building

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Senator Tom Apodaca, Chair
Presiding

DeAnne Mangum, Committee Clerk



Senate Committee on Rules and Operations of the Senate
Wednesday, June 8, 2016, 1:00 PM
1027/1128 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 169	Regulatory Reduction Act of 2016.	Representative Hager Representative Presnell

Adjournment



Apodaca

adjourned 1:18p

Senate Committee on Rules and Operations of the Senate
Wednesday, June 8, 2016, 1:00 PM
1027/1128 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 169	Regulatory Reduction Act of 2016.	Representative Hager Representative Presnell

Hise moves for PCS fav
Adjournment

Sen. B. Jackson rec'd to explain what has changed
- deleted distillery provision selling more than
one bottle/year
- deletes the repeal of DEA develop program
Check summary

McKissick moves

(FAV)



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT
Senator Apodaca, Co-Chair**

Wednesday, June 08, 2016

Senator Apodaca,
submits the following with recommendations as to passage:

**UNFAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 2, BUT
FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 3**

HB 169 (SCS#2)	Regulatory Reduction Act of 2016.
	Draft Number: H169-PCS40653-TQ-45
	Sequential Referral: None
	Recommended Referral: None
	Long Title Amended: No

TOTAL REPORTED: 1

Senator Trudy Wade will handle HB 169



★ C M R 7 0 4 - V - 1 ★



HOUSE BILL 169: Regulatory Reduction Act of 2016.

This Bill Analysis
reflects the
contents of the bill
as it was presented
in committee.

2016-2017 General Assembly

Committee: Senate Rules and Operations of the Senate
Introduced by:
Analysis of: PCS to Fifth Edition
H169-CSTQ-45 [v.2]

Date: June 8, 2016
Prepared by: Jeff Hudson,
Jennifer McGinnis,
Jennifer Mundt,
Chris Saunders, and
Layla Cummings
Legislative Staff

SUMMARY: *The Proposed Committee Substitute (PCS) to House Bill 169 would amend a number State laws related to business regulation; State and local government regulation; and agricultural, energy, environmental, and natural resources regulation*

The PCS makes the following changes from the Fifth Edition:

- *Deletes a provision allowing distilleries to annually sell one bottle of each product produced by the distillery to consumers who tour the distillery.*
- *Deletes Section 3.2, which would have repealed G.S. 143-64, that:*
 - *Directs the Department of Environmental Quality to develop a comprehensive program to manage energy, water, and other utility use for State agencies and State institutions of higher learning.*
 - *Directs the Department of Administration to develop policies to ensure that State purchasing practices improve efficiency regarding energy, water, and other utility use and take the cost of the product over the economic life of the product into consideration.*
 - *Requires the Department of Administration to conduct an energy audit of each State agency or State institutions of higher learning once every 5 years.*
- *Repeals a requirement that buyers of milk for processing and distribution report on the quantities of the various classifications of milk purchased and the class in which milk was distributed or sold.*
- *Removes Robeson County and Stanly County from the list of counties in which motor vehicle emissions inspections are required.*

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

BILL ANALYSIS:

PART I. ADMINISTRATIVE REFORMS

RESTRICTIONS ON RULES WITH SUBSTANTIAL FINANCIAL COSTS

SECTION 1.1. would place the following restrictions on rules that would have a substantial projected financial cost:

- Prohibit an agency from adopting a rule or set of rules with a projected aggregate financial cost equal to or greater than one hundred million dollars during any five-year period.
- Place the following requirements on an agency adopting a rule or set of rules with a projected aggregate financial cost equal to or greater than ten million dollars during any five-year period.
 - If the agency is a board or commission, the rule or set of rules must be approved by at least sixty percent of those voting.
 - If the agency is headed by a member of the Council of State, the Council of State member must sign a certification indicating the review and support of the rule or set of rules.
 - For other agencies, the Governor must sign a certification indicating the review and support of the rule or set of rules.
- Provide that a rule or set of rules with a projected aggregate financial cost equal to or greater than ten million dollars during any five-year period is automatically subject to legislative review as if ten letters of objection had been received.

SECTION 1.2. would prohibit an agency from incorporating all or part of a code, standard, or regulation adopted by the federal government, unless the agency establishes a procedure by which any change by the federal government is reviewed and approved by the agency within 30 days of the change.

SECTION 1.3. would provide that rules adopted by an agency authorized to implement and enforce State and federal environmental laws that impose a more restrictive standard, limitation, or requirement than imposed by federal law and that are adopted to address a serious and unforeseen threat to public health, safety, or welfare are subject to the same limitations and legislative review requirements set out in Section 1.1 of the bill that apply to a rule or set of rules with a projected aggregate financial cost equal to or greater than ten million dollars during any five-year period.

SECTION 1.4. would make clarifying and organizational changes to two sections of the statute governing the periodic review and expiration of rules process.

SECTION 1.5. would provide that the requirements of Sections 1.1, 1.3, and 1.4 of the bill apply to rules adopted or undergoing the periodic review and expiration of rules process on or after that date.

PART II. BUSINESS REGULATION

EXEMPT CERTAIN BUILDING CODE CLASSIFICATIONS FROM ENERGY EFFICIENCY STANDARDS

Section 2.1. would require the Building Code Council to exempt the following use and occupancy classifications from the requirements of the Energy Conservation Code: Factory Group F, Storage Group S, and Utility and Miscellaneous Group U.

STREAMLINE MORTGAGE NOTICE REQUIREMENTS

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Section 2.2. would remove a duplicative notice requirement required to be made by a servicer of a home loan. The statement mailing requirement and borrower notification requirement are satisfied when the person complies with the federal disclosure requirements.

AUTHORIZE NORTH CAROLINA DISTILLERIES TO BETTER COMPETE NATIONALLY AND INTERNATIONALLY

Section 2.3.(a) would authorize the holder of a distillery permit to sell spirituous liquor in closed containers, at wholesale or retail, for delivery outside the State. When sold for delivery outside the State, the retail price would be the distiller's price, and would not include the additional markups and charges that make up the uniform State price for spirituous liquor.

This section would become effective July 1, 2016.

PART III. STATE AND LOCAL GOVERNMENT REGULATION

DIRECT THE MEDICAL CARE COMMISSION TO ADOPT THE RECOMMENDATIONS OF THE AMERICAN SOCIETY OF HEALTHCARE ENGINEERS FACILITY GUIDELINES INSTITUTE

Sections 3.1.(a) through 3.1.(e) would:

- Direct the Medical Care Commission to repeal a suite of rules that regulate licensing of hospitals pertaining to physical plant, general requirements, and construction requirements (Hospital Facilities Rules) by December 31, 2016, and to replace those particular rules with temporary (and subsequently permanent) rules by incorporating, by reference, all the applicable standards, rules, and requirements of the most current edition of the American Society for Healthcare Engineering's Facility Guidelines Institute *Guidelines for Design and Construction of Hospitals and Outpatient Facilities* (Guidelines).
- Provide that the rules adopted to replace the Hospital Facilities Rules with the Guidelines would be exempt from the provisions of the Administrative Procedure Act (Act) under Chapter 150B of the General Statutes that require the preparation of fiscal notes.
- Provide that until the Hospital Facilities Rules are repealed and replaced by the Guidelines, the Hospital Facilities Rules would not be subject to the statutory periodic rules review required by the Act.

REPEAL CERTAIN EDUCATIONAL TESTING LAWS

Section 3.3. would remove a provision from an education testing statute that encourages local administrative units to continue to develop local testing programs designed to diagnose student needs.

PART IV. AGRICULTURE, ENERGY, ENVIRONMENTAL, AND NATURAL RESOURCES REGULATION

REPEAL RECYCLING REQUIREMENTS FOR DISCARDED COMPUTER EQUIPMENT AND TELEVISIONS

Section 4.1.(a) would repeal requirements for computer and television manufacturers to collect and recycle their products discarded by consumers in the State.

Section 4.1.(b) would repeal a ban on disposal of computers in landfills.

Section 4.1.(c) would repeal a ban on disposal of televisions in landfills.

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Section 4.1.(d) would repeal a ban on disposal of computers by incineration in an incinerator for which a solid waste permit is required.

Section 4.1.(e) would repeal a ban on disposal of televisions by incineration in an incinerator for which a solid waste permit is required.

Section 4.1.(f) would repeal a reporting requirement for local governments regarding permanent recycling programs for discarded computer equipment and televisions.

REPEAL YARD WASTE PERMITTING REQUIREMENTS

Section 4.2.(a) would define "yard waste" as land-clearing debris, including stumps, limbs, leaves, grass, and untreated wood, and yard trash, including brush, grass, tree limbs, and similar vegetative material.

Section 4.2.(b) would provide that yard waste diverted from the waste stream or collected as source separated material would not be subject to a solid waste permit for transfer, treatment, processing, storage, or disposal in a permitted solid waste management facility. The provision, however, would not limit the authority of any local government to manage yard waste. Yard waste as defined under the bill would include land-clearing debris, including stumps, limbs, leaves, grass, and untreated wood, and yard trash including brush, grass, tree limbs, and similar vegetative material.

Pursuant to provisions in the Administrative Code, facilities that accept yard waste could, depending on the type and amount of material accepted and the size of the facility, be required to obtain a solid waste permit for a treatment and processing facility, a land clearing and inert debris landfill, or could be required to file a Yard Waste Notification.

Section 4.2.(c) would provide that the section becomes effective July 1, 2017, and would apply to the transfer, treatment, processing, storage, or disposal of yard waste occurring on or after that date.

ELIMINATE OUTDATED PROVISIONS OF THE COASTAL AREA MANAGEMENT ACT

Section 4.3.(a) would repeal the statute that originally required coastal counties to develop a land-use plan or directed the Coastal Resources Commission to prepare and adopt a land-use plan for a county that failed to do so.

Section 4.3.(b) would repeal a conforming statute that authorizes the Secretary of Environmental Quality to make grants to local government units to assist in the development of local plans.

REPEAL PASTURE POINTS PROVISION

Section 4.4. would repeal a 2001 provision that directed the Soil and Water Conservation Commission to approve a point system applicable to pasture management practices no later than September 1, 2002. The point system was never implemented.

REPEAL RESTRICTION ON PET TURTLE SALES

Section 4.5. would direct the Commission for Public Health to repeal two rules prohibiting the sale of all turtles for purposes other than scientific, educational, or food purposes. The Food and Drug Administration prohibits the sale of turtles with a carapace length of less than four inches as pets (21 C.F.R. 1240.62).

LIMIT MOTOR VEHICLE INSPECTIONS

Section 4.6.(a) would remove the following counties from the list of counties in which motor vehicle emissions inspections are required: Burke, Cleveland, Robeson, Rutherford, Stanly, Stokes, Surry, and Wilkes.

Section 4.6.(b) would require the Department of Environmental Quality (DEQ) to prepare and submit a revised State Implementation Plan based on the removal of counties from the emissions inspection program to the United States Environmental Protection Agency (USEPA) by December 31, 2016.

Section 4.6.(c) would provide that the removal of counties from the emissions inspection program would become effective on the later of July 1, 2017, or the first day of a month that is 60 days after DEQ certifies to the Revisor of Statutes that USEPA has approved the revised State Implementation Plan.

ELIMINATE REPORTS TO THE COMMISSIONER OF AGRICULTURE AS TO MILK PURCHASED OR SOLD

Section 4.7 would repeal a requirement that buyers of milk for processing and distribution report on the quantities of the various classifications of milk purchased and the class in which milk was distributed or sold.

PART V. ELIMINATE, CONSOLIDATE, AND AMEND REPORTS TO THE ENVIRONMENTAL REVIEW COMMISSION

Sections 5.1 through 5.10 would eliminate the following reports:

- Cost of implementing the Mining Act of 1971 by the Department of Environmental Quality (DEQ).
- The implementation of the sustainable energy efficient buildings program by the Department of Administration (DOA).
- Systemwide municipal and domestic wastewater collection system permit program by the Environmental Management Commission (EMC).
- Reducing vehicle emissions from state employee and private sector vehicles by the Department of Transportation (DOT).
- Purchase of new motor vehicles and fuel savings by DOA.
- State of the Environment Report by DEQ.
- Fish kill activity by DEQ.
- Developing engineering standards governing municipal and domestic systems to allow regional interconnection by the EMC.
- Implementation of the North Carolina Beach and Inlet Management Plan by DEQ.
- Informal review process for agency review of engineering work.

Sections 5.11 through 5.18 would make consolidate and make other changes to the following reports:

- The Coastal Resources Commission, EMC, and Marine Fisheries Commission report on progress in developing and implementing the Coastal Habitat Protection Plans would be consolidated with the report requiring DEQ to report on any significant changes in the Plans.
- DEQ's report on the cost of the State's environmental permitting programs would be consolidated with the report on the time required to process all permit applications in the One-Stop for Certain Environmental Permits Programs. The annual reports would become due biennially with the first combined report due no later than January 1, 2017.
- The EMC's report on permits and renewals for facilities discharging to surface waters would be consolidated with the report on the operation and activities of the Commission. The quarterly reports would become due annually with the first combined report due no later than January 1, 2017.
- DEQ's report on the status of solid waste management would be consolidated with the reports on recycling of computer equipment and televisions, the Brownfields Property Reuse Act, the Inactive Hazardous Waste Response Act of 1987, the Dry-Cleaning Solvent Cleanup Act of 1997, and the implementation and cost of the hazardous waste management program. The combined report would be due annually with the first report due no later than January 15, 2017.
- DEQ's report on the Sedimentation Pollution Control Act of 1973 would be consolidated with EMC's report on stormwater control. The first annual combined report would be due no later than October 1, 2016.
- DEQ's reports on the development of the State water supply plan and the development of basinwide hydrological models would be consolidated with the report on basinwide water quality management submitted by the EMC and DEQ. The first annual combined report would be due no later than November 1, 2016.
- DEQ's report on accounts in the Water Infrastructure Fund would be consolidated with the State Water Infrastructure Authority's reports of its activity and findings. The first annual combined report would be due no later than October 1, 2016 and the combined report would also be received by the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources (ANER Oversight Committee) and the Fiscal Research Division.
- The Soil and Water Conservation Commission's reports on the Agriculture Cost Share Program for Nonpoint Source Pollution Control Program and the Community Conservation and Assistance Program would be consolidated with the comprehensive report on the Agricultural Water Resources Assistance Program by the Division of Soil and Water Conservation of the Department of Agriculture and Consumer Services. The first annual combined report would be due no later than January 31, 2017.

Sections 5.19 through 5.24 would make the following changes to reports:

- Decrease reporting frequency on the terminal groins pilot project by the Coastal Resources Commission from annually to every 5 years.
- Decrease reporting frequency on the parks system plan by the Department of Natural and Cultural Resources from annually to every five years and add the ANER Oversight Committee as a recipient of the report.
- Redirect interagency report on superfund cost share to the ANER Oversight Committee.

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- Redirect reports on expenditures from the Bernard Allen Emergency Drinking Water Fund to the ANER Oversight Committee.
- Redirect report on the Parks and Recreation Trust Fund to the ANER Oversight Committee.
- Eliminate report on the use of funds derived from energy conservation savings.

PART VI. SEVERABILITY CLAUSE AND EFFECTIVE DATE

Section 6.1. would add a severability clause to the bill.

Section 6.2. would provide that the bill would be effective when it becomes law, except as otherwise specified.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

D

HOUSE BILL 169
Committee Substitute Favorable 3/18/15
Committee Substitute #2 Favorable 7/16/15
Senate Commerce Committee Substitute Adopted 5/26/16
Senate Rules and Operations of the Senate Committee Substitute Adopted 6/7/16
PROPOSED SENATE COMMITTEE SUBSTITUTE H169-PCS40653-TQ-45

Short Title: Regulatory Reduction Act of 2016.

(Public)

Sponsors:

Referred to:

March 9, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FURTHER REGULATORY RELIEF TO THE CITIZENS OF NORTH
3 CAROLINA.
4 The General Assembly of North Carolina enacts:

5
6 PART I. ADMINISTRATIVE REFORMS

7
8 RESTRICTIONS ON RULES WITH SUBSTANTIAL FINANCIAL COSTS

9 SECTION 1.1. Chapter 150B of the General Statutes is amended by adding a new
10 section to read:

11 "**§ 150B-19.4. Requirements on rules with substantial financial costs.**

12 (a) Prohibition. – Notwithstanding any authority given to an agency to adopt a rule, an
13 agency may not adopt a permanent rule or set of rules with a projected aggregate financial cost to
14 all persons affected equal to or greater than one hundred million dollars (\$100,000,000) during any
15 five-year period. The agency's determination of the projected aggregate financial cost of a
16 permanent rule or set of rules shall comply with the requirements of G.S. 150B-21.4(b1). The
17 agency's determination of the projected aggregate financial cost of a permanent rule or set of rules
18 shall not include any financial benefits of the permanent rule or set of rules.

19 (b) Limitation. – If an agency determines that a proposed permanent rule or set of rules
20 will have a projected aggregate financial cost to all persons affected equal to or greater than ten
21 million dollars (\$10,000,000) during any five-year period, the adoption of the permanent rule or
22 set of rules must comply with the following:

- 23 (1) If the agency is a board, a commission, a council, or other similar unit of
24 government, a certification that the adoption of the rule or set of rules must be
25 approved by at least sixty percent (60%) of those voting on the rule or set of
26 rules.
27 (2) For an agency headed by a member of the Council of State, the adoption of the
28 rule or set of rules must be accompanied by a certification signed by the
29 member of the Council of State indicating the member's review and support of
30 the rule or set or rules.



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(3) For all other agencies, the adoption of the rule or set of rules must be accompanied by a certification signed by the Governor indicating the Governor's review and support of the rule or set of rules.

(c) Legislative Review. – A permanent rule or set of rules subject to the limitation of subsection (b) of this section shall be subject to the provisions of G.S. 150B-21.3(b1) as if, pursuant to G.S. 150B-21.3(b2), the rule or set of rules received written objections from 10 or more persons and a bill specifically disapproving the rule or set of rules was introduced in a house of the General Assembly before the thirty-first legislative day."

SECTION 1.2. G.S. 150B-21.6 reads as rewritten:

"§ 150B-21.6. Incorporating material in a rule by reference.

An agency may incorporate the following material by reference in a rule without repeating the text of the referenced material:

- (1) Another rule or part of a rule adopted by the agency.
- (2) All or part of a code, standard, or regulation adopted by another ~~agency, the federal government, agency~~ or a generally recognized organization or association.
- (3) Repealed by Session Laws 1997-34, s. 5.
- (4) All or part of a code, standard, or regulation adopted by the federal government if the agency establishes a procedure by which any change by the federal government is reviewed and approved by the agency within 120 days of the change.

In incorporating material by reference, the agency must designate in the rule whether or not the incorporation includes subsequent amendments and editions of the referenced material. The agency can change this designation only by a subsequent rule-making proceeding. The agency must have copies of the incorporated material available for inspection and must specify in the rule both where copies of the material can be obtained and the cost on the date the rule is adopted of a copy of the material.

A statement in a rule that a rule incorporates material by reference in accordance with former G.S. 150B-14(b) is a statement that the rule does not include subsequent amendments and editions of the referenced material. A statement in a rule that a rule incorporates material by reference in accordance with former G.S. 150B-14(c) is a statement that the rule includes subsequent amendments and editions of the referenced material."

SECTION 1.3. G.S. 150B-19.3(a) reads as rewritten:

"(a) An agency authorized to implement and enforce State and federal environmental laws may not adopt a permanent rule for the protection of the environment or natural resources that imposes a more restrictive standard, limitation, or requirement than those imposed by federal law or rule, if a federal law or rule pertaining to the same subject matter has been adopted, unless adoption of the rule is required by one of the subdivisions of this subsection. ~~A permanent rule required by a serious and unforeseen threat to public health, safety, or welfare shall be subject to the limitation and legislative review provisions of G.S. 150B-19.4(b) and (c).~~ A permanent rule required by one of the following subdivisions of this subsection shall be subject to the provisions of G.S. 150B-21.3(b1) as if the rule received written objections from 10 or more persons under G.S. 150B-21.3(b2):

- ~~(1) A serious and unforeseen threat to the public health, safety, or welfare.~~
- (2) An act of the General Assembly or United States Congress that expressly requires the agency to adopt rules.
- (3) A change in federal or State budgetary policy.
- (4) A federal regulation required by an act of the United States Congress to be adopted or administered by the State.
- (5) A court order."

SECTION 1.4. G.S. 150B-21.3A reads as rewritten:

1 **"§ 150B-21.3A. Periodic review and expiration of existing rules.**

2 ...
3 (e) ~~Rules to Conform to or Implement Federal Law. — Rules adopted to conform to or~~
4 ~~implement federal law shall not expire as provided by this section. The Commission shall report~~
5 ~~annually to the Committee on any rules that do not expire pursuant to this subsection.~~ Exclusions. —
6 The Commission shall report annually to the Committee on any rules that do not expire pursuant
7 to this subsection. The following rules shall not expire as provided in this section:

8 (1) Rules adopted to conform to or implement federal law.

9 (2) Rules deemed by the Boards of Trustees established under G.S. 128-28 and
10 G.S. 135-6 to protect inchoate or accrued rights of members of the Retirement
11 Systems administered by the State Treasurer.

12 ~~(e1) Rules to Protect Inchoate or Accrued Rights of Retirement Systems Members. — Rules~~
13 ~~deemed by the Boards of Trustees established under G.S. 128-28 and G.S. 135-6 to protect~~
14 ~~inchoate or accrued rights of members of the Retirement Systems administered by the State~~
15 ~~Treasurer shall not expire as provided by this section. The Commission shall report annually to the~~
16 ~~Committee on any rules that do not expire pursuant to this subsection.~~

17"

18 **SECTION 1.5.** Sections 1.1, 1.2, 1.3, and 1.4 are effective when this act becomes law.
19 Sections 1.1, 1.3, and 1.4 apply to rules adopted or undergoing the review process on or after that
20 date.

21 **PART II. BUSINESS REGULATION**

22 **EXEMPT CERTAIN BUILDING CODE CLASSIFICATIONS FROM ENERGY**
23 **EFFICIENCY STANDARDS**

24 **SECTION 2.1.** G.S. 143-138 is amended by adding a new subsection to read:

25 "(b16) Exclusion from Energy Efficiency Code Requirements for Certain Use and Occupancy
26 Classifications. — The Council shall provide for an exemption from any requirements in the energy
27 efficiency standards pursuant to Chapter 13 of the 2012 North Carolina Building Code and the
28 2012 Energy Conservation Code, and any subsequent amendments to the Building Code and
29 Energy Conservation Code, for the following use and occupancy classifications pursuant to
30 Chapter 3 of the 2012 North Carolina Building Code: Section 306, Factory Group F; Section 311,
31 Storage Group S; and Section 312, Utility and Miscellaneous Group U."
32
33
34

35 **STREAMLINE MORTGAGE NOTICE REQUIREMENTS**

36 **SECTION 2.2.** G.S. 45-91 reads as rewritten:

37 **"§ 45-91. Assessment of fees; processing of payments; publication of statements.**

38 A servicer must comply as to every home loan, regardless of whether the loan is considered in
39 default or the borrower is in bankruptcy or the borrower has been in bankruptcy, with the
40 following requirements:

41 (1) Any fee that is incurred by a servicer shall be both:

42 a. Assessed within 45 days of the date on which the fee was incurred.
43 Provided, however, that attorney or trustee fees and costs incurred as a
44 result of a foreclosure action shall be assessed within 45 days of the date
45 they are charged by either the attorney or trustee to the servicer.

46 b. Explained clearly and conspicuously in a statement mailed to the
47 borrower at the borrower's last known address within 30 days after
48 assessing the fee, provided the servicer shall not be required to take any
49 action in violation of the provisions of the federal bankruptcy code. The
50 servicer shall not be required to send such a statement for a fee that: (i)
51 results from a service that is affirmatively requested by the borrower,

- (ii) is paid for by the borrower at the time the service is provided, and
(iii) is not charged to the borrower's loan account.
- (2) All amounts received by a servicer on a home loan at the address where the borrower has been instructed to make payments shall be accepted and credited, or treated as credited, within one business day of the date received, provided that the borrower has made the full contractual payment and has provided sufficient information to credit the account. If a servicer uses the scheduled method of accounting, any regularly scheduled payment made prior to the scheduled due date shall be credited no later than the due date. Provided, however, that if any payment is received and not credited, or treated as credited, the borrower shall be notified within 10 business days by mail at the borrower's last known address of the disposition of the payment, the reason the payment was not credited, or treated as credited to the account, and any actions necessary by the borrower to make the loan current.
- (2a) The notification required by subdivision (2) of this section is not necessary if (i) the servicer complies with the terms of any agreement or plan made with the borrower and has applied and credited payments received in the manner required, and (ii) the servicer is applying and crediting payments to the borrower's account in compliance with all applicable State and federal laws, including bankruptcy laws, and if at least one of the following occurs:
- a. The borrower has entered into a written loss mitigation, loan modification, or forbearance agreement with the servicer that itemizes all amounts due and specifies how payments will be applied and credited;
- b. The borrower has elected to participate in an alternative payment plan, such as a biweekly payment plan, that specifies as part of a written agreement how payments will be applied and credited; or
- c. The borrower is making payments pursuant to a bankruptcy plan.
- (3) Failure to charge the fee or provide the information within the allowable time and in the manner required under subdivision (1) of subsection (a) of this section constitutes a waiver of such fee.
- (4) All fees charged by a servicer must be otherwise permitted under applicable law and the contracts between the parties. Nothing herein is intended to permit the application of payments or method of charging interest which is less protective of the borrower than the contracts between the parties and other applicable law.
- (5) The obligations of mortgage servicers set forth in G.S. 53-244.110.
- (6) The statement mailing requirement and borrower notification requirements of this section are deemed satisfied by compliance with the disclosure requirements contained in Regulation Z, 12 C.F.R. § 1026.41."

**AUTHORIZE NORTH CAROLINA DISTILLERIES TO BETTER COMPETE
NATIONALLY AND INTERNATIONALLY**

SECTION 2.3.(a) G.S. 18B-1105 reads as rewritten:

"§ 18B-1105. Authorization of distillery permit.

- (a) Authorized Acts. – The holder of a distillery permit may do any of the following:
- (1) Manufacture, purchase, import, possess and transport ingredients and equipment used in the distillation of spirituous liquor
- (2) Sell, deliver and ship spirituous liquor in closed containers at wholesale to exporters and local boards within the State, and, ~~subject to the laws of other jurisdictions, at wholesale or retail to private or public agencies or establishments of other states or nations.~~ State.

(2a) Sell spirituous liquor in closed containers at wholesale or retail, subject to the laws of other jurisdictions, for delivery outside the State.

(3) Transport into or out of the distillery the maximum amount of liquor allowed under federal law, if the transportation is related to the distilling process.

(4) Sell spirituous liquor distilled at the distillery in closed containers to visitors who tour the distillery for consumption off the premises. Sales under this subdivision are allowed only in a county where the establishment of a county or municipal ABC store has been approved pursuant to G.S. 18B-602(g) and are subject to the time and day restrictions in G.S. 18B-802. Spirituous liquor sold under this subdivision shall (i) be listed as a code item for sale in the State, (ii) be sold at the price set by the Commission for the code item pursuant to G.S. 18B-804(b), and (iii) have affixed to its bottle a sticker that bears the words "North Carolina Distillery Tour Commemorative Spirit" in addition to any other labeling requirements set by law. Consumers purchasing spirituous liquor under this subdivision are limited to purchasing, and the selling distillery is limited to selling to each consumer, no more than one bottle of spirituous liquor per 12 month period. The distillery shall use a commonly adopted standard point of sale system to maintain searchable electronic records captured at the point of sale, to include the purchaser's name, drivers license number, and date of birth for at least 12 months from the date of purchase. The Commission shall adopt rules regulating the retail sale of spirituous liquor under this subdivision.

(b) Distilleries for Fuel Alcohol. – Any person in possession of a Federal Operating Permit pursuant to Title 27, Code of Federal Regulations, Part 19 (April 1, 2010 Edition), shall obtain a fuel alcohol permit before manufacturing any alcohol. The permit shall entitle the permittee to perform only those acts allowed by the Federal Operating Permit, and all conditions of the Federal Operating Permit shall apply to the State permit."

SECTION 2.3.(b) G.S. 18B-804 is amended by adding a new subsection to read:
"§ 18B-804. Alcoholic beverage pricing.

(a) Uniform Price of Spirituous Liquor. – The retail price of spirituous liquor sold in ABC stores and permitted distilleries shall be uniform throughout the State, unless otherwise provided by the ABC law.

(b) Sale Price of Spirituous Liquor. – The sale of spirituous liquor, including antique spirituous liquor, sold at the uniform State price shall consist of the following components:

(1) The distiller's or the antique spirituous liquor seller's price.

(2) The freight and bailment charges of the State warehouse as determined by the Commission.

(3) A markup for local boards as determined by the Commission.

(4) The tax levied under G.S. 105-113.80(c), which shall be levied on the sum of subdivisions (1), (2), and (3).

(5) An additional markup for local boards equal to three and one-half percent (3 1/2%) of the sum of subdivisions (1), (2), and (3).

(6) A bottle charge of one cent (1¢) on each bottle containing 50 milliliters or less and five cents (5¢) on each bottle containing more than 50 milliliters.

(6a) The bailment surcharge.

(6b) An additional bottle charge for local boards of one cent (1¢) on each bottle containing 50 milliliters or less and five cents (5¢) on each bottle containing more than 50 milliliters.

(7) A rounding adjustment, the formula of which may be determined by the Commission, so that the sale price will be divisible by five.

1 (8) If the spirituous liquor is sold to a mixed beverage permittee for resale in mixed
2 beverages, a charge of twenty dollars (\$20.00) on each four liters and a
3 proportional sum on lesser quantities.

4 (9) If the spirituous liquor is sold to a guest room cabinet permittee for resale, a
5 charge of twenty dollars (\$20.00) on each four liters and a proportional sum on
6 lesser quantities.

7 (b1) Price of Spirituous Liquor Sold at Distillery. – When the holder of a distillery permit
8 sells spirituous liquor distilled at the distillery pursuant to G.S. 18B-1105(a)(4), the retail price of
9 the spirituous liquor shall be the uniform State price set by subsection (a) of this section. However,
10 the holder of the distillery permit shall not be required to remit the components of the price set
11 forth by subdivisions (2), (3), (5), (6), (6a), (6b), and (7) of subsection (b) of this section.

12 (b2) Price of Spirituous Liquor Sold for Delivery Outside the State. – When the holder of a
13 distillery permit sells spirituous liquor for delivery outside the State pursuant to
14 G.S. 18B-1105(a)(2a), the retail price of the spirituous liquor shall be the distiller's price.

15 (c) Sale Price of Fortified Wine. – The sale price of fortified wine shall include the tax
16 levied by G.S. 105-113.80(b), as well as State and local sales taxes.

17 (d) Repealed by Session Laws 1985, c. 59, s. 2."

18 **SECTION 2.3.(c)** G.S. 18B-800 reads as rewritten:

19 **"§ 18B-800. Sale of alcoholic beverages in ABC stores.**

20 (a) Spirituous Liquor. – Except as provided in ~~Article 10~~ Articles 10 and 11 of this
21 Chapter, spirituous liquor may be sold only in ABC stores operated by local boards.

22 (b) Fortified Wine. – In addition to spirituous liquor, ABC stores may sell fortified wine.
23 ABC stores may also sell wine products, irrespective of alcohol content by volume, which were
24 classified as fortified wine by the ABC Commission prior to July 7, 2004.

25 (c) Commission Approval. – No ABC store may sell any alcoholic beverage which has not
26 been approved by the Commission for sale in this State.

27 (d) Expired.

28 (e) Each ABC store shall display spirits which are distilled in North Carolina in an area
29 dedicated solely to North Carolina products."

30 **SECTION 2.3.(d)** The Alcoholic Beverage Control Commission shall adopt
31 temporary rules to amend its rules consistent with this section.

32 **SECTION 2.3.(e)** This section becomes effective July 1, 2016.

33

34 **PART III. STATE AND LOCAL GOVERNMENT REGULATION**

35

36 **DIRECT THE MEDICAL CARE COMMISSION TO ADOPT THE** 37 **RECOMMENDATIONS OF THE AMERICAN SOCIETY OF HEALTHCARE** 38 **ENGINEERS FACILITY GUIDELINES INSTITUTE**

39 **SECTION 3.1.(a)** Definitions. – For purposes of this section and its implementation:

40 (1) "Hospital Facilities Rules" means all of the following:

- 41 a. 10A NCAC 13B .6001 – Physical Plant: Location.
- 42 b. 10A NCAC 13B .6002 – Physical Plant: Roads and Parking.
- 43 c. 10A NCAC 13B .6104 – General Requirements: Access and Safety.
- 44 d. 10A NCAC 13B .6201 – Construction Requirements: Medical, Surgical,
45 and Post-Partum Care Unit.
- 46 e. 10A NCAC 13B .6202 – Construction Requirements: Special Care Unit.
- 47 f. 10A NCAC 13B .6203 – Construction Requirements: Neonatal Level I
48 and Level II Nursery Unit.
- 49 g. 10A NCAC 13B .6204 – Construction Requirements: Neonatal Level III
50 and Level IV Nursery.
- 51 h. 10A NCAC 13B .6205 – Construction Requirements: Psychiatric Unit.

- i. 10A NCAC 13B .6206 – Construction Requirements: Surgical Department Requirements.
- j. 10A NCAC 13B .6207 – Construction Requirements: Obstetrical Department Requirements.
- k. 10A NCAC 13B .6209 – Construction Requirements: Emergency Services.
- l. 10A NCAC 13B .6210 – Construction Requirements: Imaging Services.
- m. 10A NCAC 13B .6211 – Construction Requirements: Laboratory Services.
- n. 10A NCAC 13B .6212 – Construction Requirements: Morgue.
- o. 10A NCAC 13B .6213 – Construction Requirements: Pharmacy Services.
- p. 10A NCAC 13B .6214 – Construction Requirements: Dietary Services.
- q. 10A NCAC 13B .6215 – Construction Requirements: Administration.
- r. 10A NCAC 13B .6216 – Construction Requirements: Medical Records Services.
- s. 10A NCAC 13B .6217 – Construction Requirements: Central Medical and Surgical Supply Services.
- t. 10A NCAC 13B .6218 – Construction Requirements: General Storage.
- u. 10A NCAC 13B .6219 – Construction Requirements: Laundry Services.
- v. 10A NCAC 13B .6220 – Construction Requirements: Physical Rehabilitation Services.
- w. 10A NCAC 13B .6221 – Construction Requirements: Engineering Services.
- x. 10A NCAC 13B .6222 – Construction Requirements: Waste Processing.
- y. 10A NCAC 13B .6223 – Construction Requirements: Details and Finishes.
- z. 10A NCAC 13B .6224 – Construction Requirements: Elevator Requirements.
- aa. 10A NCAC 13B .6225 – Construction Requirements: Mechanical Requirements.
- bb. 10A NCAC 13B .6226 – Construction Requirements: Plumbing and Other Piping Systems Requirements.
- cc. 10A NCAC 13B .6227 – Construction Requirements: Electrical Requirements.

- (2) "Guidelines" means the American Society for Healthcare Engineering's Facility Guidelines Institute "Guidelines for Design and Construction of Hospitals and Outpatient Facilities."

SECTION 3.1.(b) Repeal Hospital Facilities Rules. – The Secretary of Health and Human Services and the Medical Care Commission shall repeal the Hospital Facilities Rules on or before December 31, 2016.

SECTION 3.1.(c) Implementation and Rule-Making Authority. – Before the effective date of the repeal of the Hospital Facilities Rules required pursuant to subsection (b) of this section, the Medical Care Commission shall adopt temporary rules to replace the Hospital Facilities Rules and incorporate by reference all applicable rules, standards, and requirements of the most current edition of the Guidelines. If temporary rules are not adopted before the repeal of the Hospital Facilities Rules required pursuant to subsection (a) of this section, the Commission shall utilize the 2014 Edition of the Guidelines until such time as temporary rules are adopted. Furthermore, the Commission shall adopt permanent rules pursuant to this section.

SECTION 3.1.(d) Additional Rule-Making Authority. – The Commission shall adopt rules to replace the Hospital Facilities Rules. Notwithstanding G.S. 150B-19(4), the rules adopted

by the Commission pursuant to this section shall conform to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. 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). Furthermore, rules adopted pursuant to this section shall be exempt from the provisions of Chapter 150B of the General Statutes that require the preparation of fiscal notes for any rule proposed to incorporate the Guidelines by reference.

SECTION 3.1.(e) Exemption from Periodic Review. – Until such time as the Hospital Facilities Rules are repealed pursuant to subsection (b) of this section, the Hospital Facilities Rules shall be exempt from the periodic review process required pursuant to G.S. 150B-21.3A.

REPEAL CERTAIN EDUCATIONAL TESTING LAWS

SECTION 3.3. G.S. 115C-174.12(c) reads as rewritten:

"(c) Local boards of education shall cooperate with the State Board of Education in implementing the provisions of this Article, including the regulations and policies established by the State Board of Education. Local school administrative units shall use the annual tests to fulfill the purposes set out in this Article. ~~Local school administrative units are encouraged to continue to develop local testing programs designed to diagnose student needs.~~"

PART IV. AGRICULTURE, ENERGY, ENVIRONMENTAL, AND NATURAL RESOURCES REGULATION

REPEAL RECYCLING REQUIREMENTS FOR DISCARDED COMPUTER EQUIPMENT AND TELEVISIONS

SECTION 4.1.(a) Part 2H of Article 9 of Chapter 130A of the General Statutes is repealed.

SECTION 4.1.(b) G.S. 130A-309.10(f)(14) is repealed.

SECTION 4.1.(c) G.S. 130A-309.10(f)(15) is repealed.

SECTION 4.1.(d) G.S. 130A-309.10(f1)(7) is repealed.

SECTION 4.1.(e) G.S. 130A-309.10(f1)(8) is repealed.

SECTION 4.1.(f) G.S. 130A-309.09A(d)(8) is repealed.

REPEAL YARD WASTE PERMITTING REQUIREMENTS

SECTION 4.2.(a) G.S. 130A-290(a) reads as rewritten:

"§ 130A-290. Definitions.

(a) Unless a different meaning is required by the context, the following definitions shall apply throughout this Article:

...

(45) "Yard trash" means solid waste ~~consisting solely of vegetative matter~~ resulting from landscaping ~~maintenance~~ and yard maintenance, including brush, grass, tree limbs, and similar vegetative material.

(46) "Yard waste" means yard trash and land-clearing debris, including stumps, limbs, leaves, grass, and untreated wood."

SECTION 4.2.(b) G.S. 130A-294 is amended by adding a new subsection to read:

"(v) Yard waste diverted from the waste stream or collected as source-separated material is not subject to a solid waste permit for transfer, treatment, processing, storage, or disposal in a permitted solid waste management facility. Operators of facilities where yard waste is subject to transfer, treatment, processing, storage, or disposal shall, however, comply with all other federal, State, or local laws, ordinances, rules, regulations, or orders, including zoning, flood plain, and wetland restrictions, sedimentation and erosion control requirements, and mining regulations.

Nothing in this subsection shall be construed as limiting the authority of any local government to manage the transfer, treatment, processing, storage, or disposal of yard waste."

SECTION 4.2.(c) This section becomes effective July 1, 2017, and applies to the transfer, treatment, processing, storage, or disposal of yard waste occurring on or after that date.

ELIMINATE OUTDATED PROVISIONS OF THE COASTAL AREA MANAGEMENT ACT

SECTION 4.3.(a) G.S. 113A-109 is repealed.

SECTION 4.3.(b) G.S. 113A-112 is repealed.

SECTION 4.3.(c) Subsection (b) of this section becomes effective January 1, 2017.

REPEAL PASTURE POINTS PROVISION

SECTION 4.4. Section 4(c) of S.L. 2001-355 is repealed.

REPEAL RESTRICTION ON PET TURTLE SALES

SECTION 4.5. The Commission for Public Health shall repeal 10A NCAC 41A .0301 (Definitions) and 10A NCAC 41A .0302 (Sale of Turtles Restricted) on or before December 1, 2016. Until the effective date of the repeal of the rule required pursuant to this section, the Department of Health and Human Services, the Department of Environmental Quality, or any other political subdivision of the State shall not implement or enforce 10A NCAC 41A .0301 (Definitions) and 10A NCAC 41A .0302 (Sale of Turtles Restricted).

LIMIT MOTOR VEHICLE EMISSIONS INSPECTIONS

SECTION 4.6.(a) G.S. 143-215.107A reads as rewritten:

"§ 143-215.107A. Motor vehicle emissions testing and maintenance program.

(a) General Provisions. –

(1) G.S. 143-215.107(a)(6) shall be implemented as provided in this section.

(2) Motor vehicle emissions inspections shall be performed by a person who holds an emissions inspection mechanic license issued as provided in G.S. 20-183.4A(c) at a station that holds an emissions inspection station license issued under G.S. 20-183.4A(a) or at a place of business that holds an emissions self-inspector license issued as provided in G.S. 20-183.4A(d). Motor vehicle emissions inspections may be performed by a decentralized network of test-and-repair stations as described in 40 Code of Federal Regulations § 51.353 (1 July 1998 Edition). The Commission may not require that motor vehicle emissions inspections be performed by a network of centralized or decentralized test-only stations.

(b) Repealed by Session Laws 2000-134, s. 2, effective July 14, 2000.

(c) Counties Covered. – Motor vehicle emissions inspections shall be performed in the following counties: Alamance, Brunswick, Buncombe, ~~Burke~~, Cabarrus, Caldwell, Carteret, Catawba, Chatham, ~~Cleveland~~, Craven, Cumberland, Davidson, Durham, Edgecombe, Forsyth, Franklin, Gaston, Granville, Guilford, Harnett, Haywood, Henderson, Iredell, Johnston, Lee, Lenoir, Lincoln, Mecklenburg, Moore, Nash, New Hanover, Onslow, Orange, Pitt, Randolph, ~~Robeson~~, Rockingham, Rowan, ~~Rutherford~~, ~~Stanly~~, ~~Stokes~~, ~~Surry~~, Union, Wake, Wayne, ~~Wilkes~~ and Wilson.

(d) Repealed by Session Laws 2012-200, s. 12(a), effective August 1, 2012."

SECTION 4.6.(b) No later than December 31, 2016, the Department of Environmental Quality shall prepare and submit to the United States Environmental Protection Agency for approval by that agency a proposed North Carolina State Implementation Plan amendment based on the change to the motor vehicle emissions testing program provided in this section.

SECTION 4.6.(c) This section becomes effective on the later of the following dates and applies to motor vehicles inspected, or due to be inspected, on or after the effective date of this act:

(1) July 1, 2017.

(2) The first day of a month that is 60 days after the Department of Environmental Quality certifies to the Revisor of Statutes that the United States Environmental Protection Agency has approved an amendment to the North Carolina State Implementation Plan submitted as required by subsection (b) of this section. The Department shall provide this notice along with the effective date of this act on its Web site and by written or electronic notice to emissions inspection mechanic license holders, emissions inspection station licensees, and self-inspector licensees in the counties where motor vehicle emissions inspection requirements are removed by this act.

ELIMINATE REPORTS TO THE COMMISSIONER OF AGRICULTURE AS TO MILK PURCHASED OR SOLD

SECTION 4.7. G.S. 106-261 is repealed.

PART V. ELIMINATE, CONSOLIDATE, AND AMEND REPORTS TO THE ENVIRONMENTAL REVIEW COMMISSION

ELIMINATE ANNUAL REPORT ON MINING ACCOUNT PURSUANT TO THE MINING ACT OF 1971 BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY

SECTION 5.1. G.S. 74-54.1(c) is repealed.

ELIMINATE ANNUAL REPORT ON THE IMPLEMENTATION OF THE SUSTAINABLE ENERGY EFFICIENT BUILDINGS PROGRAM BY THE DEPARTMENT OF ADMINISTRATION

SECTION 5.2.(a) G.S. 143-135.39(f) and (g) are repealed.

SECTION 5.2.(b) G.S. 143-135.40(b) is repealed.

ELIMINATE QUARTERLY REPORT ON SYSTEMWIDE MUNICIPAL AND DOMESTIC WASTEWATER COLLECTION SYSTEM PERMIT PROGRAM BY THE ENVIRONMENTAL MANAGEMENT COMMISSION

SECTION 5.3. G.S. 143-215.9B reads as rewritten:

"§ 143-215.9B. Systemwide municipal and domestic wastewater collection system permit program report.

The Environmental Management Commission shall develop and implement a permit program for municipal and domestic wastewater collection systems on a systemwide basis. The collection system permit program shall provide for performance standards, minimum design and construction requirements, a capital improvement plan, operation and maintenance requirements, and minimum reporting requirements. In order to ensure an orderly and cost-effective phase-in of the collection system permit program, the Commission shall implement the permit program over a five-year period beginning 1 July 2000. The Commission shall issue permits for approximately twenty percent (20%) of municipal and domestic wastewater collection systems that are in operation on 1 July 2000 during each of the five calendar years beginning 1 July 2000 and shall give priority to those collection systems serving the largest populations, those under a moratorium imposed by the Commission under G.S. 143-215.67, and those for which the Department of Environmental Quality has issued a notice of violation for the discharge of untreated wastewater. ~~The Commission shall report on its progress in developing and implementing the collection system permit program required by this section as a part of each quarterly report the~~

~~Environmental Management Commission makes to the Environmental Review Commission pursuant to G.S. 143B-282(b)."~~

ELIMINATE ANNUAL REPORTS ON REDUCING VEHICLE EMISSIONS FROM STATE EMPLOYEE AND PRIVATE SECTOR VEHICLES BY THE DEPARTMENT OF TRANSPORTATION

SECTION 5.4. G.S. 143-215.107C(d) and (e) are repealed.

ELIMINATE ANNUAL REPORT ON PURCHASE OF NEW MOTOR VEHICLES AND FUEL SAVINGS BY THE DEPARTMENT OF ADMINISTRATION

SECTION 5.5. G.S. 143-341(8)i.2b. reads as rewritten:

"2b. As used in this sub-sub-subdivision, "fuel economy" and "class of comparable automobiles" have the same meaning as in Part 600 of Title 40 of the Code of Federal Regulations (July 1, 2008 Edition). As used in this sub-sub-subdivision, "passenger motor vehicle" has the same meaning as "private passenger vehicle" as defined in G.S. 20-4.01. Notwithstanding the requirements of sub-sub-subdivision 2a. of this sub-subdivision, every request for proposals for new passenger motor vehicles to be purchased by the Department shall state a preference for vehicles that have a fuel economy for the new vehicle's model year that is in the top fifteen percent (15%) of its class of comparable automobiles. The award for every new passenger motor vehicle that is purchased by the Department shall be based on the Department's evaluation of the best value for the State, taking into account fuel economy ratings and life cycle cost that reasonably consider both projected fuel costs and acquisition costs. This sub-sub-subdivision does not apply to vehicles used in law enforcement, emergency medical response, and firefighting. ~~The Department shall report the number of new passenger motor vehicles that are purchased as required by this sub-sub-subdivision, the savings or costs for the purchase of vehicles to comply with this sub-sub-subdivision, and the quantity and cost of fuel saved for the previous fiscal year on or before October 1 of each year to the Joint Legislative Commission on Governmental Operations and the Environmental Review Commission."~~

ELIMINATE BIENNIAL STATE OF THE ENVIRONMENT REPORT BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY

SECTION 5.6. G.S. 143B-279.5 is repealed.

ELIMINATE ANNUAL REPORT ON FISH KILL ACTIVITY BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY

SECTION 5.7. G.S. 143B-279.7(c) is repealed.

ELIMINATE THE ENVIRONMENTAL MANAGEMENT COMMISSION QUARTERLY REPORT ON DEVELOPING ENGINEERING STANDARDS GOVERNING MUNICIPAL AND DOMESTIC SYSTEMS TO ALLOW REGIONAL INTERCONNECTION

SECTION 5.8. Section 11.1 of S.L. 1999-329 reads as rewritten:

1 "Section 11.1. The Environmental Management Commission shall develop engineering
2 standards governing municipal and domestic wastewater collection systems that will allow
3 interconnection of these systems on a regional basis. ~~The Commission shall report on its progress~~
4 ~~in developing the engineering standards required by this section as a part of each quarterly report~~
5 ~~the Commission makes to the Environmental Review Commission pursuant to G.S. 143B-282(b)."~~
6

7 **ELIMINATE BIENNIAL REPORT ON IMPLEMENTATION OF THE NORTH**
8 **CAROLINA BEACH AND INLET MANAGEMENT PLAN BY THE DEPARTMENT OF**
9 **ENVIRONMENTAL QUALITY**

10 **SECTION 5.9.** Section 13.9(d) of S.L. 2000-67 reads as rewritten:

11 "Section 13.9.(d) Each plan shall be as complete as resources and available information allow.
12 ~~The Department of Environment and Natural Resources shall revise the plan every two years and~~
13 ~~shall submit the revised plan to the General Assembly no later than March 1 of each odd-~~
14 ~~numbered year. The Department may issue a supplement to the plan in even-numbered years if~~
15 ~~significant new information becomes available."~~
16

17 **ELIMINATE ANNUAL REPORT ON INFORMAL REVIEW PROCESS FOR AGENCY**
18 **REVIEW OF ENGINEERING WORK**

19 **SECTION 5.10.** Sections 29(j) and 29(k) of S.L. 2014-120 are repealed.
20

21 **CONSOLIDATE REPORTS ON THE COASTAL HABITAT PROTECTION PLAN**

22 **SECTION 5.11.(a)** G.S. 143B-279.8(e) reads as rewritten:

23 "(e) The Coastal Resources Commission, the Environmental Management Commission,
24 and the Marine Fisheries Commission shall report to the Joint Legislative Commission on
25 Governmental Operations and the Environmental Review Commission on progress in developing
26 and implementing the Coastal Habitat Protection Plans, including the extent to which the actions
27 of the three commissions are consistent with the Plans, on or before ~~1 September~~ September 1 of
28 each year-year in which any significant revisions to the Plans are made."
29

30 **SECTION 5.11.(b)** G.S. 143B-279.8(f) is repealed.

31 **CONSOLIDATE AND REDUCE FREQUENCY OF REPORTS ON COST AND**
32 **IMPLEMENTATION OF ENVIRONMENTAL PERMITTING PROGRAMS**

33 **SECTION 5.12.(a)** G.S. 143-215.3A(c) reads as rewritten:

34 "(c) The Department shall report to the Environmental Review Commission and the Fiscal
35 Research Division on the cost of the State's environmental permitting programs contained within
36 the Department on or before ~~1 November~~ January 1 of each ~~odd-numbered~~ year. The report shall
37 include, but is not limited to, fees set and established under this Article, fees collected under this
38 Article, revenues received from other sources for environmental permitting and compliance
39 programs, changes made in the fee schedule since the last report, anticipated revenues from all
40 other sources, interest earned and any other information requested by the General Assembly. The
41 Department shall submit this report with the report required by G.S. 143B-279.17 as a single
42 report."
43

44 **SECTION 5.12.(b)** G.S. 143B-279.17 reads as rewritten:

45 **"§ 143B-279.17. Tracking and report on permit processing times.**

46 The Department of Environmental Quality shall track the time required to process all permit
47 applications in the One-Stop for Certain Environmental Permits Programs established by
48 G.S. 143B-279.12 and the Express Permit and Certification Reviews established by
49 G.S. 143B-279.13 that are received by the Department. The processing time tracked shall include
50 (i) the total processing time from when an initial permit application is received to issuance or
51 denial of the permit and (ii) the processing time from when a complete permit application is
received to issuance or denial of the permit. No later than ~~March 1~~ January 1 of each

1 odd-numbered year, the Department shall report to the Fiscal Research Division of the General
2 Assembly and the Environmental Review Commission on the permit processing times required to
3 be tracked pursuant to this section. The Department shall submit this report with the report
4 required by G.S. 143-215.3A(c) as a single report."

5 **SECTION 5.12.(c)** The first combined report required by subsections (a) and (b) of
6 this section shall be submitted to the Environmental Review Commission and the Fiscal Research
7 Division no later than January 1, 2017.

8
9 **CONSOLIDATE AND REDUCE FREQUENCY OF REPORTS BY THE**
10 **ENVIRONMENTAL MANAGEMENT COMMISSION**

11 **SECTION 5.13.(a)** G.S. 143B-282(b) reads as rewritten:

12 "(b) The Environmental Management Commission shall submit ~~quarterly~~-written reports as
13 to its operation, activities, programs, and progress to the Environmental Review
14 ~~Commission-Commission~~ by January 1 of each year. The Environmental Management
15 Commission shall supplement the written reports required by this subsection with additional
16 written and oral reports as may be requested by the Environmental Review Commission. ~~The~~
17 ~~Environmental Management Commission shall submit the written reports required by this~~
18 ~~subsection whether or not the General Assembly is in session at the time the report is due."~~

19 **SECTION 5.13.(b)** G.S. 143-215.1(h) reads as rewritten:

20 "(h) Each applicant for a new permit or the modification of an existing permit issued under
21 subsection (c) of this section shall include with the application: (i) the extent to which the new or
22 modified facility is constructed in whole or in part with funds provided or administered by the
23 State or a unit of local government, (ii) the impact of the facility on water quality, and (iii) whether
24 there are cost-effective alternative technologies that will achieve greater protection of water
25 quality. The Commission shall prepare ~~a quarterly~~ an annual summary and analysis of the
26 information provided by applicants pursuant to this subsection. The Commission shall submit the
27 summary and analysis required by this subsection to the Environmental Review Commission
28 (ERC) as a part of each ~~quarterly~~ annual report that the Commission is required to make to the
29 ERC under G.S. 143B-282(b)."

30 **SECTION 5.13.(c)** The first combined report required by subsections (a) and (b) of
31 this section shall be submitted to the Environmental Review Commission no later than January 1,
32 2017.

33
34 **CONSOLIDATE WASTE MANAGEMENT REPORTS BY THE DEPARTMENT OF**
35 **ENVIRONMENTAL QUALITY**

36 **SECTION 5.14.(a)** G.S. 130A-309.06(c) reads as rewritten:

37 "(c) The Department shall report to the Environmental Review Commission and the Fiscal
38 Research Division on or before ~~15 January~~ January 15 of each year on the status of solid waste
39 management efforts in the State. The report shall include:

- 40 (1) A comprehensive analysis, to be updated in each report, of solid waste
41 generation and disposal in the State projected for the 20-year period beginning
42 on ~~1 July~~ July 1, 1991.
- 43 (2) The total amounts of solid waste recycled and disposed of and the methods of
44 solid waste recycling and disposal used during the calendar year prior to the
45 year in which the report is published.
- 46 (3) An evaluation of the development and implementation of local solid waste
47 management programs and county and municipal recycling programs.
- 48 (4) An evaluation of the success of each county or group of counties in meeting the
49 municipal solid waste reduction goal established in G.S. 130A-309.04.

- (5) Recommendations concerning existing and potential programs for solid waste reduction and recycling that would be appropriate for units of local government and State agencies to implement to meet the requirements of this Part.
- (6) An evaluation of the recycling industry, the markets for recycled materials, the recycling of polystyrene, and the success of State, local, and private industry efforts to enhance the markets for these materials.
- (7) Recommendations to the Governor and the Environmental Review Commission to improve the management and recycling of solid waste in the State, including any proposed legislation to implement the recommendations.
- (8) A description of the condition of the Solid Waste Management Trust Fund and the use of all funds allocated from the Solid Waste Management Trust Fund, as required by G.S. 130A-309.12(c).
- (9) A description of the review and revision of bid procedures and the purchase and use of reusable, refillable, repairable, more durable, and less toxic supplies and products by both the Department of Administration and the Department of Transportation, as required by G.S. 130A-309.14(a1)(3).
- (10) A description of the implementation of the North Carolina Scrap Tire Disposal Act that includes the amount of revenue used for grants and to clean up nuisance tire collection under the provisions of G.S. 130A-309.64.
- (11) A description of the management of white goods in the State, as required by G.S. 130A-309.85.
- (12) A summary of the report by the Department of Transportation on the amounts and types of recycled materials that were specified or used in contracts that were entered into by the Department of Transportation during the previous fiscal year, as required by G.S. 136-28.8(g).
- (13) Repealed by Session Laws 2010-142, s. 1, effective July 22, 2010.
- (14) (Expiring October 1, 2023) A description of the activities related to the management of abandoned manufactured homes in the State in accordance with G.S. 130A-117, the beginning and ending balances in the Solid Waste Management Trust Fund for the reporting period and the amount of funds used, itemized by county, for grants made under Part 2F of Article 9 of Chapter 130A of the General Statutes.
- (15) A report on the recycling of discarded computer equipment and televisions in the State pursuant to G.S. 130A-309.140(a).
- (16) An evaluation of the Brownfields Property Reuse Act pursuant to G.S. 130A-310.40.
- (17) A report on the Inactive Hazardous Waste Response Act of 1987 pursuant to G.S. 130A-310.10(a).
- (18) A report on the Dry-Cleaning Solvent Cleanup Act of 1997 pursuant to G.S. 143-215.104U(a) until such time as the act expires pursuant to Part 6 of Article 21A of Chapter 143 of the General Statutes.
- (19) A report on the implementation and cost of the hazardous waste management program pursuant to G.S. 130A-294(i)."

SECTION 5.14.(b) G.S. 130A-309.140(a) reads as rewritten:

"(a) ~~No later than January 15 of each year, the Department shall submit a report on The~~
Department shall include in the status of solid waste management report required to be submitted
on or before January 15 of each year pursuant to G.S. 130A-309.06(c) a report on the recycling of
discarded computer equipment and televisions in the State under this Part to the Environmental
Review Commission Part. 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."

SECTION 5.14.(c) G.S. 130A-310.40 reads as rewritten:

"§ 130A-310.40. Legislative reports.

The Department shall ~~prepare and submit to the Environmental Review Commission, concurrently with the report on the Inactive Hazardous Sites Response Act of 1987 required under G.S. 130A-310.10,~~ include in the status of solid waste management report required to be submitted on or before January 15 of each year pursuant to G.S. 130A-309.06(c) an evaluation of the effectiveness of this Part in facilitating the remediation and reuse of existing industrial and commercial properties. This evaluation shall include any recommendations for additional incentives or changes, if needed, to improve the effectiveness of this Part in addressing such properties. This evaluation shall also include a report on receipts by and expenditures from the Brownfields Property Reuse Act Implementation Account."

SECTION 5.14.(d) G.S. 130A-310.10(a) reads as rewritten:

"(a) The Secretary shall include in the status of solid waste management report required to be submitted on or before January 15 of each year pursuant to G.S. 130A-309.06(c) a report on inactive hazardous sites to the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission, and the Fiscal Research Division on or before October 1 of each year. The report shall include that includes at least the following:

- (1) The Inactive Hazardous Waste Sites Priority List.
- (2) A list of remedial action plans requiring State funding through the Inactive Hazardous Sites Cleanup Fund.
- (3) A comprehensive budget to implement these remedial action plans and the adequacy of the Inactive Hazardous Sites Cleanup Fund to fund the cost of said plans.
- (4) A prioritized list of sites that are eligible for remedial action under CERCLA/SARA together with recommended remedial action plans and a comprehensive budget to implement such plans. The budget for implementing a remedial action plan under CERCLA/SARA shall include a statement as to any appropriation that may be necessary to pay the State's share of such plan.
- (5) A list of sites and remedial action plans undergoing voluntary cleanup with Departmental approval.
- (6) A list of sites and remedial action plans that may require State funding, a comprehensive budget if implementation of these possible remedial action plans is required, and the adequacy of the Inactive Hazardous Sites Cleanup Fund to fund the possible costs of said plans.
- (7) A list of sites that pose an imminent hazard.
- (8) A comprehensive budget to develop and implement remedial action plans for sites that pose imminent hazards and that may require State funding, and the adequacy of the Inactive Hazardous Sites Cleanup Fund.
- (8a) Repealed by Session Laws 2015-286, s. 4.7(f), effective October 22, 2015.
- (9) Any other information requested by the General Assembly or the Environmental Review Commission."

SECTION 5.14.(e) G.S. 143-215.104U reads as rewritten:

"§ 143-215.104U. Reporting requirements.

(a) The Secretary shall ~~present an annual report to the Environmental Review Commission that shall include~~ include in the status of solid waste management report required to be submitted on or before January 15 of each year pursuant to G.S. 130A-309.06(c) a report on at least the following:

- (1) A list of all dry-cleaning solvent contamination reported to the Department.

- 1 (2) A list of all facilities and abandoned sites certified by the Commission and the
- 2 status of contamination associated with each facility or abandoned site.
- 3 (3) An estimate of the cost of assessment and remediation required in connection
- 4 with facilities or abandoned sites certified by the Commission and an estimate
- 5 of assessment and remediation costs expected to be paid from the Fund.
- 6 (4) A statement of receipts and disbursements for the Fund.
- 7 (5) A statement of all claims against the Fund, including claims paid, claims
- 8 denied, pending claims, anticipated claims, and any other obligations.
- 9 (6) The adequacy of the Fund to carry out the purposes of this Part together with
- 10 any recommendations as to measures that may be necessary to assure the
- 11 continued solvency of the Fund.

12 ~~(b) The Secretary shall make the annual report required by this section on or before 1~~
13 ~~October of each year."~~

14 **SECTION 5.14.(f)** G.S. 130A-294(i) reads as rewritten:

15 "(i) ~~The Department shall report to Fiscal Research Division of the General Assembly, the~~
16 ~~Senate Appropriations Subcommittee on Natural and Economic Resources, the House~~
17 ~~Appropriations Subcommittee on Natural and Economic Resources, and the Environmental~~
18 ~~Review Commission on or before January 1 of each year include in the status of solid waste~~
19 ~~management report required to be submitted on or before January 15 of each year pursuant to~~
20 ~~G.S. 130A-309.06(c) a report~~ on the implementation and cost of the hazardous waste management
21 program. The report shall include an evaluation of how well the State and private parties are
22 managing and cleaning up hazardous waste. The report shall also include recommendations to the
23 Governor, State agencies, and the General Assembly on ways to: improve waste management;
24 reduce the amount of waste generated; maximize resource recovery, reuse, and conservation; and
25 minimize the amount of hazardous waste which must be disposed of. The report shall include
26 beginning and ending balances in the Hazardous Waste Management Account for the reporting
27 period, total fees collected pursuant to G.S. 130A-294.1, anticipated revenue from all sources,
28 total expenditures by activities and categories for the hazardous waste management program, any
29 recommended adjustments in annual and tonnage fees which may be necessary to assure the
30 continued availability of funds sufficient to pay the State's share of the cost of the hazardous waste
31 management program, and any other information requested by the General Assembly. In
32 recommending adjustments in annual and tonnage fees, the Department may propose fees for
33 hazardous waste generators, and for hazardous waste treatment facilities that treat waste generated
34 on site, which are designed to encourage reductions in the volume or quantity and toxicity of
35 hazardous waste. The report shall also include a description of activities undertaken to implement
36 the resident inspectors program established under G.S. 130A-295.02. In addition, the report shall
37 include an annual update on the mercury switch removal program that shall include, at a
38 minimum, all of the following:

- 39 (1) A detailed description of the mercury recovery performance ratio achieved by
- 40 the mercury switch removal program.
- 41 (2) A detailed description of the mercury switch collection system developed and
- 42 implemented by vehicle manufacturers in accordance with the NVMSRP.
- 43 (3) In the event that a mercury recovery performance ratio of at least 0.90 of the
- 44 national mercury recovery performance ratio as reported by the NVMSRP is
- 45 not achieved, a description of additional or alternative actions that may be
- 46 implemented to improve the mercury switch removal program.
- 47 (4) The number of mercury switches collected and a description of how the
- 48 mercury switches were managed.
- 49 (5) A statement that details the costs required to implement the mercury switch
- 50 removal program, including a summary of receipts and disbursements from the
- 51 Mercury Switch Removal Account."

1 **SECTION 5.14.(g)** The first combined report required by subsections (a) through (f)
2 of this section shall be submitted to the Environmental Review Commission and the Fiscal
3 Research Division no later than January 15, 2017.

4
5 **CONSOLIDATE SEDIMENTATION POLLUTION CONTROL ACT AND**
6 **STORMWATER REPORTS**

7 **SECTION 5.15.(a)** G.S. 113A-67 reads as rewritten:

8 **"§ 113A-67. Annual Report.**

9 The Department shall report to the Environmental Review Commission on the implementation
10 of this Article on or before ~~1 October~~October 1 of each year. The Department shall include in the
11 report an analysis of how the implementation of the Sedimentation Pollution Control Act of 1973
12 is affecting activities that contribute to the sedimentation of streams, rivers, lakes, and other waters
13 of the State. The report shall also include a review of the effectiveness of local erosion and
14 sedimentation control programs. The report shall be submitted to the Environmental Review
15 Commission with the report required by G.S. 143-214.7(e) as a single report."

16 **SECTION 5.15.(b)** G.S. 143-214.7(e) reads as rewritten:

17 "(e) On or before October 1 of each year, the ~~Commission~~Department shall report to the
18 Environmental Review Commission on the implementation of this section, including the status of
19 any stormwater control programs administered by State agencies and units of local government.
20 The status report shall include information on any integration of stormwater capture and reuse into
21 stormwater control programs administered by State agencies and units of local government. The
22 report shall be submitted to the Environmental Review Commission with the report required by
23 G.S. 113A-67 as a single report."

24 **SECTION 5.15.(c)** The first combined report required by subsections (a) and (b) of
25 this section shall be submitted to the Environmental Review Commission no later than October 1,
26 2016.

27
28 **CONSOLIDATE VARIOUS WATER RESOURCES AND WATER QUALITY REPORTS**
29 **BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY**

30 **SECTION 5.16.(a)** G.S. 143-355(n) is repealed.

31 **SECTION 5.16.(b)** G.S. 143-355(o)(9) is repealed.

32 **SECTION 5.16.(c)** G.S. 143-355 is amended by adding a new subsection to read:

33 "**(p)** Report. – The Department of Environmental Quality shall report to the Environmental
34 Review Commission on the implementation of this section, including the development of the State
35 water supply plan and the development of basinwide hydrologic models, no later than November 1
36 of each year. The Department shall submit the report required by this subsection with the report on
37 basinwide water quality management plans required by G.S. 143-215.8B(d) as a single report."

38 **SECTION 5.16.(d)** G.S. 143-215.8B(d) reads as rewritten:

39 "(d) ~~The As a part of the report required pursuant to G.S. 143-355(p), the~~ Commission and
40 the Department shall each report on or before ~~1 October~~November 1 of each year on an annual
41 basis to the Environmental Review Commission on the progress in developing and implementing
42 basinwide water quality management plans and on increasing public involvement and public
43 education in connection with basinwide water quality management planning. The report to the
44 Environmental Review Commission by the Department shall include a written statement as to all
45 concentrations of heavy metals and other pollutants in the surface waters of the State that are
46 identified in the course of preparing or revising the basinwide water quality management plans."

47 **SECTION 5.16.(e)** The first combined report required by subsections (c) and (d) of
48 this section shall be submitted to the Environmental Review Commission no later than November
49 1, 2016.

CONSOLIDATE REPORTS BY THE DIVISION OF WATER INFRASTRUCTURE OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE STATE WATER INFRASTRUCTURE AUTHORITY

SECTION 5.17.(a) G.S. 159G-26(a) reads as rewritten:

"(a) Requirement. – The Department ~~must shall~~ publish a report each year on the accounts in the Water Infrastructure Fund that are administered by the Division of Water Infrastructure. The report ~~must shall~~ be published by ~~4~~November 1 of each year and cover the preceding fiscal year. The Department ~~must shall~~ make the report available to the public and ~~must shall~~ give a copy of the report to the Environmental Review ~~Commission and the~~Commission, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division of the Legislative Services Commission. Division with the report required by G.S. 159G-72 as a single report."

SECTION 5.17.(b) G.S. 159G-72 reads as rewritten:

"§ 159G-72. State Water Infrastructure Authority; reports.

No later than November 1 of each year, the Authority shall submit a report of its activity and findings, including any recommendations or legislative proposals, to the ~~Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division of the Legislative Services Commission.~~Environmental Review Commission, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division with the report required by G.S. 159G-26(a) as a single report."

SECTION 5.17.(c) The first combined report required by subsections (a) and (b) of this section shall be submitted to the Environmental Review Commission, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division no later than November 1, 2016.

CONSOLIDATE REPORTS BY SOIL AND WATER CONSERVATION COMMISSION AND THE DIVISION OF SOIL AND WATER CONSERVATION OF THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

SECTION 5.18.(a) G.S. 106-850(e) reads as rewritten:

"(e) The Soil and Water Conservation Commission shall report on or before ~~31~~January 31 of each year to the Environmental Review Commission, the Department of Agriculture and Consumer Services, and the Fiscal Research Division. This report shall include a list of projects that received State funding pursuant to the program, the results of the evaluations conducted pursuant to subdivision (7) of subsection (b) of this section, findings regarding the effectiveness of each of these projects to accomplish its primary purpose, and any recommendations to assure that State funding is used in the most cost-effective manner and accomplishes the greatest improvement in water quality. This report shall be submitted to the Environmental Review Commission and the Fiscal Research Division with the reports required by G.S. 106-860(e) and G.S. 139-60(d) as a single report."

SECTION 5.18.(b) G.S. 106-860(e) reads as rewritten:

"(e) Report. – The Soil and Water Conservation Commission shall report no later than ~~31~~January 31 of each year to the Environmental Review Commission, the Department of Agriculture and Consumer Services, and the Fiscal Research Division. The report shall include a summary of projects that received State funding pursuant to the Program, the results of the evaluation conducted pursuant to subdivision (5) of subsection (b) of this section, findings regarding the effectiveness of each project to accomplish its primary purpose, and any recommendations to assure that State funding is used in the most cost-effective manner and accomplishes the greatest improvement in water quality. This report shall be submitted to the Environmental Review Commission and the Fiscal Research Division as a part of the report required by G.S. 106-850(e)."

SECTION 5.18.(c) G.S. 139-60(d) reads as rewritten:

"(d) Report. – No later than January 31 of each year, the Division of Soil and Water Conservation of the Department of Agriculture and Consumer Services shall prepare a comprehensive report on the implementation of subsections (a) through (c) of this section. The report shall be submitted to the Environmental Review Commission and the Fiscal Research Division as a part of the report required by G.S. 106-850(e)."

SECTION 5.18.(d) The first combined report required by subsections (a) through (c) of this section shall be submitted to the Environmental Review Commission and the Fiscal Research Division no later than January 31, 2017.

DECREASE REPORTING FREQUENCY ON TERMINAL GROINS PILOT PROJECT BY THE COASTAL RESOURCES COMMISSION

SECTION 5.19. G.S. 113A-115.1(i) reads as rewritten:

"(i) No later than ~~September 1 of each year~~, January 1, 2017, and every five years thereafter, the Coastal Resources Commission shall report to the Environmental Review Commission on the implementation of this section. The report shall provide a detailed description of each proposed and permitted terminal groin and its accompanying beach fill project, including the information required to be submitted pursuant to subsection (e) of this section. For each permitted terminal groin and its accompanying beach fill project, the report shall also provide all of the following:

- (1) The findings of the Commission required pursuant to subsection (f) of this section.
- (2) The status of construction and maintenance of the terminal groin and its accompanying beach fill project, including the status of the implementation of the plan for construction and maintenance and the inlet management plan.
- (3) A description and assessment of the benefits of the terminal groin and its accompanying beach fill project, if any.
- (4) A description and assessment of the adverse impacts of the terminal groin and its accompanying beach fill project, if any, including a description and assessment of any mitigation measures implemented to address adverse impacts."

DECREASE REPORTING FREQUENCY ON PARKS SYSTEM PLAN BY THE DEPARTMENT OF NATURAL AND CULTURAL RESOURCES

SECTION 5.20. G.S. 143B-135.48(d) reads as rewritten:

"(d) No later than ~~October 1 of each year~~, October 1, 2016, and every five years thereafter, the Department shall submit electronically the State Parks System Plan to the Environmental Review Commission, ~~the Senate and the House of Representatives appropriations committees with jurisdiction over natural and cultural resources, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division~~. Concurrently, the Department shall submit a summary of each change to the Plan that was made during the previous ~~fiscal year~~ five fiscal years."

REDIRECT INTERAGENCY REPORT ON SUPERFUND COST SHARE TO THE ANER OVERSIGHT COMMITTEE

SECTION 5.21. Section 15.6 of S.L. 1999-237 reads as rewritten:

"Section 15.6.(a) The Department of ~~Environment and Natural Resources~~ Environmental Quality may use available funds, with the approval of the Office of State Budget and Management, to provide the ten percent (10%) cost share required for Superfund cleanups on the National Priority List sites, to pay the operating and maintenance costs associated with these Superfund cleanups, and for the cleanup of priority inactive hazardous substance or waste disposal

1 sites under Part 3 of Article 9 of Chapter 130A of the General Statutes. These funds may be in
2 addition to those appropriated for this purpose.

3 "Section 15.6.(b) The Department of ~~Environment and Natural Resources~~Environmental
4 Quality and the Office of State Budget and Management shall report to the ~~Environmental Review~~
5 ~~Commission and the Joint Legislative Commission on Governmental Operations~~Joint Legislative
6 Oversight Committee on Agriculture and Natural and Economic Resources the amount and the
7 source of the funds used pursuant to subsection (a) of this section within 30 days of the
8 expenditure of these funds."
9

10 **REDIRECT REPORT ON EXPENDITURES FROM BERNARD ALLEN EMERGENCY**
11 **DRINKING WATER FUND TO ANER OVERSIGHT COMMITTEE**

12 **SECTION 5.22.** G.S. 87-98(e) reads as rewritten:

13 "(c) The Department, in consultation with the Commission for Public Health and local
14 health departments, shall report no later than October 1 of each year to the ~~Environmental Review~~
15 ~~Commission, the House of Representatives and Senate Appropriations Subcommittees on Natural~~
16 Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and
17 the Fiscal Research Division of the General Assembly on the implementation of this section. The
18 report shall include the purpose and amount of all expenditures from the Fund during the prior
19 fiscal year, a discussion of the benefits and deficiencies realized as a result of the section, and may
20 also include recommendations for any legislative action."
21

22 **REDIRECT REPORT ON PARKS AND RECREATION TRUST FUND TO THE ANER**
23 **OVERSIGHT COMMITTEE**

24 **SECTION 5.23.** G.S. 143B-135.56(f) reads as rewritten:

25 "(f) Reports. – The North Carolina Parks and Recreation Authority shall report no later
26 than October 1 of each year to the Joint Legislative ~~Commission on Governmental Operations, the~~
27 ~~House and Senate Appropriations Subcommittees on Natural and Economic Resources, Oversight~~
28 Committee on Agriculture and Natural and Economic Resources, the Fiscal Research Division,
29 and the Environmental Review Commission on allocations from the Trust Fund from the prior
30 fiscal year. For funds allocated from the Trust Fund under subsection (c) of this section, this report
31 shall include the operating expenses determined under subdivisions (1) and (2) of subsection (e) of
32 this section."
33

34 **ELIMINATE REPORTING ON EFFICIENCY STANDARDS HAVING BEEN MET OR**
35 **EXCEEDED BY STATE BUILDINGS**

36 **SECTION 5.24.** G.S. 116-30.3B(c) is repealed.
37

38 **PART VI. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

39 **SECTION 6.1.** If any section or provision of this act is declared unconstitutional or
40 invalid by the courts, it does not affect the validity of this act as a whole or any part other than the
41 part declared to be unconstitutional or invalid.

42 **SECTION 6.2.** Except as otherwise provided, this act is effective when it becomes
43 law.

Senate Pages Attending

COMMITTEE: Rules ROOM: 1027

DATE: 8 June TIME: 1 pm

PLEASE PRINT LEGIBLY!!!!!!!!!!!!!!....or else!

	Page Name	Hometown	Sponsoring Senator
1.	Ashley Lopez	Greensboro	Sen. Trudy Wade
2.		E	bon
3.		GI	arger
4.	Julia Wakeman	Cornelius	Tarte
5.			7
6.	Savannah Hill	Hookerton	Sen. B. Jackson
7.	Spencer Mangum	Raleigh	Daniel
8.		CI	
9.			
10.			

Do not add names below the grid.

Pages: Present this form to either the Committee Clerk at the meeting or to the Sgt-at-Arms.



1. 2. 3.

4. 5.





Senate Committee
On
Rules and Operations of the Senate

June 8, 2016

1:00 PM

Senate Sergeant at Arms

Jim Hamilton
Frances Patterson
Matt Urben



VISITOR REGISTRATION SHEET

Senate Rules

June 8, 2016

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Adam Sholar	NCHCFA
Hannart Ladd	NC DPHHS
David McGowan	NCPC
Cameron Hovly	MLK
Tammy Sever	WWA
Will Morgan	TNE
Jon Carr	Jordan Price
Julie Robinson	NCSEA
Tammy Stevens	Stevens Lobby
Kaylan	Kaylan Lee Frazier
Cameron Nieters	KTS



VISITOR REGISTRATION SHEET

Senate Rules

June 8, 2016

Name of Committee

Date

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Kelsey Byerly	Lannie Onorio, LLC
Cody Thomas	Focus Carolina
Emily Reese	Inc
Will Culpeper	MVA
JP Hallum	FBI
Steve Manger	NCRLA
Johanna Reese	NCACC
Luther Snyder	NC ABC Commission
Laura Marie Davis	NC LCV
Hayden Bauguess	FSP
Susan Valauri	Nationwide



VISITOR REGISTRATION SHEET

Senate Rules

June 8, 2016

Name of Committee

Date

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Erin Wynia	NCLM
Betsy Bailey	CAGC
David Crawford	AIA NC
Chuck Greene	AT+T
Joe Byall	NCFPC
Tom West	NLICH
MaH Gross	NCPA
Thelma Hicks	NCGA
Isabel Villa-Grasa	NCAR
Sarah McAuliffe	SSGNC
GERY COHEN	NM
PRESTON HOWARD	NEMA



VISITOR REGISTRATION SHEET

Senate Rules

June 8, 2016

Name of Committee

Date

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My Maule Abbill	SELC
Matthew Starr	Riverkeeper
Brooks Rainey Pearson	SELC
Tim KENT	NC BEER & WINE
Bob Hamilton	NC ABC Commission
Emelyn Henderson	CCUL
Carann Thine	MVA
Rev. MARK CREECH	CAL
Philip G. Long	Admission
Doti Church-Bryant	Sierra Club
Will Barry Hill	NCHFA



VISITOR REGISTRATION SHEET

Senate Rules

Name of Committee

June 8, 2016

Date _____

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NAME _____

FIRM OR AGENCY AND ADDRESS

Daniel Jordan

NL HFA



VISITOR REGISTRATION SHEET

Senate Rules

Name of Committee

June 8, 2016

Date _____

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[illegible]



MINUTES

Rules and Operations of the Senate

June 23, 2016

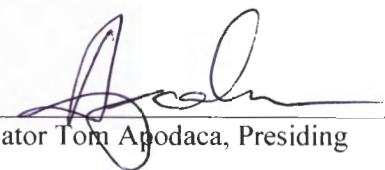
The Rules and Operations of the Senate committee met on June 23, 2016 at 8:45 a.m. The meeting was held in room 1027/1028 of the Legislative Building. Ten members of the committee were present. Senator Tom Apodaca presided.

Senator Apodaca introduced the Pages and the Sergeant at Arms.

Senator Apodaca brought forth the items on the agenda:

HB593: Amend Environmental and Other Laws - Senator Hise moved to bring the PCS before the committee. Motion carried. Senator Wade and Legislative Analysis staff explained the PCS. Senator McKissick moved for a favorable report to the new PCS, unfavorable to the original PCS. Motion carried.

The meeting adjourned at 8:55 a.m.



Senator Tom Apodaca, Presiding



Laura Kilian, Committee Assistant



Principal Clerk
Reading Clerk

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Rules and Operations of the Senate** will meet at the following time:

DAY	DATE	TIME	ROOM
Thursday	June 23, 2016	8:45 AM	1027/1128 LB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 593	Amend Environmental & Other Laws.	Representative McElraft

Senator Tom Apodaca, Chair



Senate Committee on Rules and Operations of the Senate
Thursday, June 23, 2016, 8:45 AM
1027/1128 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 593	Amend Environmental & Other Laws.	Representative McElraft

Presentations

Other Business

Adjournment



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT
Senator Apodaca, Co-Chair**

Thursday, June 23, 2016

Senator Apodaca,
submits the following with recommendations as to passage:

**UNFAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 1, BUT
FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 2**

HB 593 (SCS#1)	Amend Environmental & Other Laws.
	Draft Number: H593-PCS40675-SB-25
	Sequential Referral: None
	Recommended Referral: None
	Long Title Amended: No

TOTAL REPORTED: 1

Senator Trudy Wade will handle HB 593



* C M R 7 8 1 - V - 1 *

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT
Senator Apodaca, Co-Chair**

Thursday, June 23, 2016

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	Draft Number: H593-PCS40675-SB-25
	Sequential Referral: None
	Recommended Referral: None
	Long Title Amended: No

TOTAL REPORTED: 1

Senator Trudy Wade will handle HB 593



* C M R 7 8 1 - V - 1 *

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

3

HOUSE BILL 593
Committee Substitute Favorable 4/21/15
Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/16/16

Short Title: Amend Environmental & Other Laws.

(Public)

Sponsors:

Referred to:

April 6, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND CERTAIN ENVIRONMENTAL, NATURAL RESOURCES, AND
3 OTHER LAWS.

4 The General Assembly of North Carolina enacts:

6 PROHIBIT CERTAIN STORMWATER CONTROL MEASURES

7 SECTION 1.(a) Until the effective date of the revised permanent rule that the
8 Environmental Management Commission is required to adopt pursuant to subsection (c) of this
9 section, the Commission and the Department of Environmental Quality shall implement 15A
10 NCAC 02H .0506 (Review of Applications) as provided in subsection (b) of this section.

11 SECTION 1.(b) Notwithstanding 15A NCAC 02H .0506(b)(5) and 15A NCAC 02H
12 .0506(c)(5), the Director of the Division of Water Resources shall not require the use of on-site
13 stormwater control measures to protect downstream water quality standards, except as required by
14 State or federal law.

15 SECTION 1.(c) The Environmental Management Commission shall adopt rules to
16 amend 15A NCAC 02H .0506 (Review of Applications) consistent with subsection (b) of this
17 section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this
18 section shall be substantively identical to the provisions of subsection (b) of this section. Rules
19 adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the
20 General Statutes. Rules adopted pursuant to this section shall become effective as provided in
21 G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by
22 G.S. 150B-21.3(b2).

23 SECTION 1.(d) This section is effective when it becomes law. Subsection (b) of this
24 section expires on the date that rules adopted pursuant to subsection (c) of this section become
25 effective.

27 EXEMPT LANDSCAPING MATERIAL FROM STORMWATER MANAGEMENT
28 REQUIREMENTS

29 SECTION 2. G.S. 143-214.7(b2) reads as rewritten:

30 "(b2) For purposes of implementing stormwater programs, "built-upon area" means
31 impervious surface and partially impervious surface to the extent that the partially impervious
32 surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon
33 area" does not include a slatted deck; the water area of a swimming pool; a surface of number 57
34 stone, as designated by the American Society for Testing and Materials, laid at least four inches
35 thick over a geotextile fabric; or a trail as defined in G.S. 113A-85 that is either unpaved or paved



as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per ~~hour~~-hour); or landscaping material, including, but not limited to, gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not receive the full weight of vehicular traffic. The owner or developer of a property may opt out of any of the exemptions from "built-upon area" set out in this subsection. For State stormwater programs and local stormwater programs approved pursuant to subsection (d) of this section, all of the following shall apply:

- (1) The volume, velocity, and discharge rates of water associated with the one-year, 24-hour storm and the difference in stormwater runoff from the predevelopment and postdevelopment conditions for the one-year, 24-hour storm shall be calculated using any acceptable engineering hydrologic and hydraulic methods.
- (2) Development may occur within the area that would otherwise be required to be placed within a vegetative buffer required by the Commission pursuant to G.S. 143-214.1 and G.S. 143-214.7 to protect classified shellfish waters, outstanding resource waters, and high-quality waters provided the stormwater runoff from the development is collected and treated from the entire impervious area and discharged so that it passes through the vegetative buffer and is managed so that it otherwise complies with all applicable State and federal stormwater management requirements.
- (3) The requirements that apply to development activities within one-half mile of and draining to Class SA waters or within one-half mile of Class SA waters and draining to unnamed freshwater tributaries shall not apply to development activities and associated stormwater discharges that do not occur within one-half mile of and draining to Class SA waters or are not within one-half mile of Class SA waters and draining to unnamed freshwater tributaries."

STORMWATER CONTROL SYSTEM DESIGN REGULATION

SECTION 3.(a) G.S. 143-214.7B reads as rewritten:

"§ 143-214.7B. Fast-track permitting for stormwater management systems.

The Commission shall adopt rules to establish a fast-track permitting process that allows for the issuance of stormwater management system permits without a technical review when the permit applicant (i) complies with the Minimum Design Criteria for stormwater management developed by the Department and (ii) submits a permit application prepared by a qualified professional. In developing the rules, the Commission shall consult with a technical working group that consists of industry experts, engineers, environmental consultants, relevant faculty from The University of North Carolina, and other interested stakeholders. The rules shall, at a minimum, provide for all of the following:

- (1) A process for permit application, review, and determination.
- (2) The types of professionals that are qualified to prepare a permit application submitted pursuant to this section and the types of qualifications such professionals must have. The Commission shall include the following professionals who meet the North Carolina licensing requirements applicable to the type of stormwater management system proposed:
 - a. Landscape architects licensed pursuant to Chapter 89A of the General Statutes.
 - b. Engineers licensed pursuant to Chapter 89C of the General Statutes.
 - c. Geologists licensed pursuant to Chapter 89E of the General Statutes.
 - d. Soil scientists licensed pursuant to Chapter 89F of the General Statutes.
 - e. Any other licensed profession that the Commission deems appropriate.
- (3) A process for ensuring compliance with the Minimum Design Criteria.

(4) That permits issued pursuant to the fast-track permitting process comply with State water quality standards adopted pursuant to G.S. 143-214.1, 143-214.7, and 143-215.3(a)(1).

(5) A process for establishing the liability of a qualified professional who prepares a permit application for a stormwater management system that fails to comply with the Minimum Design Criteria."

SECTION 3.(b) The Environmental Management Commission shall amend its rules to implement subsection (a) of this section no later than July 1, 2017.

AMEND STREAM MITIGATION REQUIREMENTS

SECTION 4.(a) The Environmental Management Commission shall amend its rules so that mitigation is not required for losses of 300 linear feet or less of stream bed; for losses of more than 300 linear feet of stream bed, mitigation shall not be required for 300 linear feet of those losses; and a lower mitigation threshold may be applied in the case of a legally binding federal policy. The Commission shall adopt temporary rules as soon as practicable to implement this section.

SECTION 4.(b) During the time period for public comment specified by the Wilmington District of the United States Army Corps of Engineers in its published notice of the proposed 2017 five-year reauthorization of Nationwide Permits issued pursuant to Section 404(e) of the Clean Water Act, the Department of Environmental Quality shall submit written comments to the Washington, D.C., Headquarters and the Wilmington District Office of the United States Army Corps of Engineers on behalf of the State in support of the Wilmington District adopting Regional Conditions that will increase the threshold for the requirement of mitigation for loss of stream bed of perennial or ephemeral/intermittent streams from 150 linear feet to 300 linear feet. The written comments shall include a history of why the current threshold of 150 linear feet exists in North Carolina, shall outline the thresholds that exist in other jurisdictions, and shall note that the State has established a 300 linear foot mitigation threshold.

COASTAL RESOURCES COMMISSION RULES ON TEMPORARY EROSION CONTROL STRUCTURES

SECTION 5.(a) Sections 14.6(p) and 14.6(q) of S.L. 2015-241 are repealed.

SECTION 5.(b) The Coastal Resources Commission shall adopt temporary rules for the use of temporary erosion control structures consistent with the amendments to the temporary erosion control structure rules adopted by the Commission as agenda item CRC-16-23 on May 11, 2016, with any further modifications in the Commission's discretion. The Commission shall also adopt permanent rules to implement this section.

DIRECT THE COASTAL RESOURCES COMMISSION TO AMEND THE SEDIMENT CRITERIA RULE TO EXEMPT SEDIMENT FROM CAPE SHOAL SYSTEMS

SECTION 6.(a) Definitions. – "Sediment Criteria Rule" means 15A NCAC 07H .0312 (Technical Standards for Beach Fill Projects) for purposes of this section and its implementation.

SECTION 6.(b) Sediment Criteria Rule. – Until the effective date of the revised permanent rule that the Coastal Resources Commission is required to adopt pursuant to subsection (d) of this section, the Commission and the Department of Environmental Quality shall implement the Sediment Criteria Rule, as provided in subsection (c) of this section.

SECTION 6.(c) Implementation. – The Commission shall exempt from the permitting requirements of the Sediment Criteria Rule any sediment in the cape shoal systems used as a borrow site and any portion of an oceanfront beach that receives sediment from the cape shoal systems. For purposes of this section, "cape shoal systems" includes the Frying Pan Shoals at Cape Fear, Lookout Shoals at Cape Lookout, and Diamond Shoals at Cape Hatteras.

SECTION 6.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend the Sediment Criteria Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. 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. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

DIVISION OF COASTAL MANAGEMENT TO STUDY CURRENT LONG-TERM EROSION RATES ADJACENT TO TERMINAL GROINS

SECTION 7. The Division of Coastal Management of the Department of Environmental Quality, in consultation with the Coastal Resources Commission, shall study the change in erosion rates directly adjacent to existing and newly constructed terminal groins to determine whether long-term erosion rates, currently in effect in accordance with 15A NCAC 07H .0304 (AECS Within Ocean Hazard Areas) should be adjusted to reflect any mitigation of shoreline erosion resulting from the installation of the terminal groins. The Division shall report on the results of the study to the Environmental Review Commission on or before December 31, 2016.

SOLID WASTE AMENDMENTS

SECTION 8.(a) Section 4.9(a) of S.L. 2015-286 reads as rewritten:

"SECTION 4.9.(a) Section 14.20(a) of S.L. 2015-241 ~~reads as rewritten:~~ is rewritten to read:
...."

SECTION 8.(b) Section 4.9(b) of S.L. 2015-286 reads as rewritten:

"SECTION 4.9.(b) Section ~~14.20(a)~~ 14.20(c) of S.L. 2015-241 ~~reads as rewritten:~~ is rewritten to read:
...."

SECTION 8.(c) Section 4.9(c) of S.L. 2015-286 reads as rewritten:

"SECTION 4.9.(c) Section 14.20(d) of S.L. 2015-241 ~~reads as rewritten:~~ is rewritten to read:
...."

SECTION 8.(d) Section 4.9(d) of S.L. 2015-286 reads as rewritten:

"SECTION 4.9.(d) Section 14.20(f) of S.L. 2015-241 ~~reads as rewritten:~~ is rewritten to read:
...."

SECTION 8.(e) Section 14.20(e) of S.L. 2015-241 reads as rewritten:

"SECTION 14.20.(e) After July 1, 2016, the annual fee due pursuant to ~~G.S. 130A-295.8A(d1), G.S. 130A-295.8(d1),~~ as enacted by Section 14.20(c) of this act, for existing sanitary landfills and transfer stations with a valid permit issued before the date this act becomes effective is equal to the applicable annual fee for the facility as set forth in ~~G.S. 130A-295.8A(d1), G.S. 130A-295.8(d1),~~ as enacted by Section 14.20(c) of this act, less a permittee fee credit. A permittee fee credit exists when the life-of-site permit fee amount is greater than the time-limited permit fee amount. The amount of the permittee fee credit shall be calculated by (i) subtracting the time-limited permit fee amount from the life-of-site permit fee amount due for the same period of time and (ii) multiplying the difference by a fraction, the numerator of which is the number of years remaining in the facility's time-limited permit and the denominator of which is the total number of years covered by the facility's time-limited permit. The amount of the permittee fee credit shall be allocated in equal annual installments over the number of years that constitute the facility's remaining life-of-site, as determined by the Department, unless the

Department accelerates, in its sole discretion, the use of the credit over a shorter period of time. For purposes of this subsection, the following definitions apply:

- (1) Life-of-site permit fee amount. – The amount equal to the sum of all annual fees that would be due under the fee structure set forth in ~~G.S. 130A-295.8A(d1)~~, G.S. 130A-295.8(d1), as enacted by Section 14.20(c) of this act, during the cycle of the facility's permit in effect on July 1, 2016.
- (2) Time-limited permit fee amount. – The amount equal to the sum of the application fee or renewal fee, whichever is applicable, and all annual fees paid or to be paid pursuant to subsections (c) and (d) of ~~G.S. 130A-295.8A~~, G.S. 130A-295.8, as repealed by Section 14.20(c) of this act, during the cycle of the facility's permit in effect on July 1, 2016.

The Department shall adopt rules to implement this subsection."

SECTION 9.(a) Section 14.20(f) of S.L. 2015-241, as amended by Section 4.9(d) of S.L. 2015-286, reads as rewritten:

"SECTION 14.20.(f) This section becomes effective October 1, 2015. G.S. 130A-294(b1)(2), as amended by subsection (a) of this section, applies to franchise ~~agreements~~–agreements (i) executed on or after ~~October 1, 2015~~–October 1, 2015, and (ii) executed on or before October 1, 2015, only if all parties to a valid and operative franchise agreement consent to modify the agreement for the purpose of extending the agreement's duration to the life-of-site of the landfill for which the agreement was executed. The remainder of G.S. 130A-294, as amended by subsection (a) of this section, and G.S. 130A-295.8, as amended by subsection (c) of this section, apply to (i) existing sanitary landfills and transfer stations, with a valid permit issued before the date this act becomes effective, on July 1, 2016, at which point a permittee may choose to apply for a life-of-site permit pursuant to G.S. 130A-294(a2), as amended by Section 14.20(b) of this act, or may choose to apply for a life-of-site permit for the facility when the facility's permit is next subject to renewal after July 1, 2016, (ii) new sanitary landfills and transfer stations, for applications submitted on or after July 1, 2016, and (iii) applications for sanitary landfills or transfer stations submitted before July 1, 2015, and pending on the date this act becomes law shall be evaluated by the Department based on the applicable laws that were in effect on July 1, 2015, and the Department shall not delay in processing such permit applications in consideration of changes made by this act, but such landfills and transfer stations shall be eligible for issuance of life-of-site permits pursuant to G.S. 130A-294(a2), as amended by Section 14.20(b) of this act, on July 1, 2016, at which point a permittee may choose to apply for a life-of-site permit pursuant to G.S. 130A-294(a2), as amended by Section 14.20(b) of this act, or may choose to apply for a life-of-site permit for the facility when the facility's permit is next subject to renewal after July 1, 2016."

SECTION 9.(b) G.S. 130A-294(b1)(2) reads as rewritten:

- (2) A person who intends to apply for a new permit for a sanitary landfill shall obtain, prior to applying for a permit, a franchise for the operation of the sanitary landfill from each local government having jurisdiction over any part of the land on which the sanitary landfill and its appurtenances are located or to be located. A local government may adopt a franchise ordinance under G.S. 153A-136 or G.S. 160A-319. A franchise granted for a sanitary landfill ~~shall~~–shall (i) be granted for the life-of-site of the landfill and shall–but for a period not to exceed 60 years, and (ii) include all of the following:
 - a. A statement of the population to be served, including a description of the geographic area.
 - b. A description of the volume and characteristics of the waste stream.
 - c. A projection of the useful life of the sanitary landfill.
 - d. Repealed by Session Laws 2013-409, s. 8, effective August 23, 2013.

- 1 e. The procedures to be followed for governmental oversight and
2 regulation of the fees and rates to be charged by facilities subject to the
3 franchise for waste generated in the jurisdiction of the franchising
4 entity.
5 f. A facility plan for the sanitary landfill that shall include the boundaries
6 of the proposed facility, proposed development of the facility site, the
7 boundaries of all waste disposal units, final elevations and capacity of
8 all waste disposal units, the amount of waste to be received per day in
9 tons, the total waste disposal capacity of the sanitary landfill in tons, a
10 description of environmental controls, and a description of any other
11 waste management activities to be conducted at the facility. In addition,
12 the facility plan shall show the proposed location of soil borrow areas,
13 leachate facilities, and all other facilities and infrastructure, including
14 ingress and egress to the facility."

15 **SECTION 9.(c)** G.S. 160A-319(a) reads as rewritten:

16 **"§ 160A-319. Utility franchises.**

17 (a) A city shall have authority to grant upon reasonable terms franchises for a telephone
18 system and any of the enterprises listed in G.S. 160A-311, except a cable television system. A
19 franchise granted by a city authorizes the operation of the franchised activity within the city. No
20 franchise shall be granted for a period of more than 60 years, ~~except including a franchise granted~~
21 to a sanitary landfill for the life-of-site of the landfill pursuant to G.S. 130A-294(b1); provided,
22 however, that a franchise for solid waste collection or disposal systems and facilities-facilities,
23 other than sanitary landfills, shall not be granted for a period of more than 30 years. Except as
24 otherwise provided by law, when a city operates an enterprise, or upon granting a franchise, a city
25 may by ordinance make it unlawful to operate an enterprise without a franchise."

26 **SECTION 9.(d)** G.S. 153A-136 reads as rewritten:

27 **"§ 153A-136. Regulation of solid wastes.**

28 (a) A county may by ordinance regulate the storage, collection, transportation, use,
29 disposal, and other disposition of solid wastes. Such an ordinance may:

30 ...

- 31 (3) Grant a franchise to one or more persons for the exclusive right to
32 commercially collect or dispose of solid wastes within all or a defined portion
33 of the county and prohibit any other person from commercially collecting or
34 disposing of solid wastes in that area. The board of commissioners may set the
35 terms of any franchise, ~~except that no franchise may be granted for a period~~
36 ~~exceeding 30 years, nor may any franchise;~~ provided, however, no franchise
37 shall be granted for a period of more than 30 years, except for a franchise
38 granted to a sanitary landfill for the life-of-site of the landfill pursuant to
39 G.S. 130A-294(b1), which may not exceed 60 years. No franchise by its terms
40 may impair the authority of the board of commissioners to regulate fees as
41 authorized by this section.

42"

43 **SECTION 9.(e)** Section 9(a) of this act applies to franchise agreements (i) executed
44 on or after October 1, 2015, and (ii) executed on or before October 1, 2015, only if all parties to a
45 valid and operative agreement consent to modify the agreement for the purpose of extending the
46 agreement's duration of the life-of-site of the landfill for which the agreement was executed.

47 **SECTION 10.** The Division of Waste Management of the Department of
48 Environmental Quality shall examine whether solid waste management activities in the State are
49 being conducted in a manner most beneficial to the citizens of the State in terms of efficiency and
50 cost-effectiveness, with a focus on solid waste disposal capacity across the State, particularly,
51 areas of the State that have insufficient disposal capacity, as well as areas of the State with

disposal capacity that is underutilized, resulting in transport of waste to other jurisdictions. The Department shall develop economic estimates of the short- and long-term costs of waste transport in these situations versus full utilization of capacity, or expansion of capacity, in the originating jurisdiction. The Department shall also provide information on landfill capacity that is permitted but not yet constructed and expansion opportunities for future landfill capacity. The Department shall submit a report, including any legislative recommendations, to the Environmental Review Commission no later than December 31, 2016.

SECTION 11. G.S. 130A-294(a) reads as rewritten:

"§ 130A-294. Solid waste management program.

(a) The Department is authorized and directed to engage in research, conduct investigations and surveys, make inspections and establish a statewide solid waste management program. In establishing a program, the Department shall have authority to:

...

- (4) a. Develop a permit system governing the establishment and operation of solid waste management facilities. A landfill with a disposal area of 1/2 acre or less for the on-site disposal of land clearing and inert debris is exempt from the permit requirement of this section and shall be governed by G.S. 130A-301.1. Demolition debris from the decommissioning of manufacturing buildings, including electric generating stations, that is disposed of on the same site as the decommissioned buildings, is exempt from the permit requirement of this section and rules adopted pursuant to this section and shall be governed by G.S. 130A-301.3. The Department shall not approve an application for a new permit, major permit modification, or a substantial amendment to a permit for a sanitary landfill, excluding demolition landfills as defined in the rules of the Commission, except as provided in subdivisions (3) and (4) of subsection (b1) of this section. No permit shall be granted for a solid waste management facility having discharges that are point sources until the Department has referred the complete plans and specifications to the Commission and has received advice in writing that the plans and specifications are approved in accordance with the provisions of G.S. 143-215.1. In any case where the Department denies a permit for a solid waste management facility, it shall state in writing the reason for denial and shall also state its estimate of the changes in the applicant's proposed activities or plans that will be required for the applicant to obtain a permit.
- b. Repealed by Session Laws 2007-550, s. 1(a), effective August 1, 2007.
- c. The Department shall deny an application for a permit for a solid waste management facility if the Department finds that:
 1. Construction or operation of the proposed facility would be inconsistent with or violate rules adopted by the Commission.
 2. Construction or operation of the proposed facility would result in a violation of water quality standards adopted by the Commission pursuant to G.S. 143-214.1 for waters, as defined in G.S. 143-213.
 3. Construction or operation of the facility would result in significant damage to ecological systems, natural resources, cultural sites, recreation areas, or historic sites of more than local significance. These areas include, but are not limited to, national or State parks or forests; wilderness areas; historic sites; recreation areas; segments of the natural and scenic rivers

system; wildlife refuges, preserves, and management areas; areas that provide habitat for threatened or endangered species; primary nursery areas and critical fisheries habitat designated by the Marine Fisheries Commission; and Outstanding Resource Waters designated by the Commission.

4. Construction or operation of the proposed facility would substantially limit or threaten access to or use of public trust waters or public lands.
5. The proposed facility would be located in a natural hazard area, including a floodplain, a landslide hazard area, or an area subject to storm surge or excessive seismic activity, such that the facility will present a risk to public health or safety.
6. There is a practical alternative that would accomplish the purposes of the proposed facility with less adverse impact on public resources, considering engineering requirements and economic costs.
7. The cumulative impacts of the proposed facility and other facilities in the area of the proposed facility would violate the criteria set forth in sub-sub-subdivisions 2. through 5. of this sub-subdivision.
8. Construction or operation of the proposed facility would be inconsistent with the State solid waste management policy and goals as set out in G.S. 130A-309.04 and with the State solid waste management plan developed as provided in G.S. 130A-309.07.
9. The cumulative impact of the proposed facility, when considered in relation to other similar impacts of facilities located or proposed in the community, would have a disproportionate adverse impact on a minority or low-income community protected by Title VI of the federal Civil Rights Act of 1964. This subdivision shall apply only to the extent required by federal law.

d. Management of land clearing debris burned in accordance with 15A NCAC 02D.1903 shall not require a permit pursuant to this section.

e. For the purpose of the disposal of leachate and wastewater collected from a sanitary landfill, the Department shall approve aerosolization of such leachate and wastewater as an acceptable method of disposal. Aerosolization of leachate or wastewater that results in effluent free-production or a zero liquid discharge does not constitute a discharge that requires a permit under either Article 21 or Article 21B of Chapter 143 of the General Statutes.

SECTION 12. Except as otherwise provided, Sections 8 and 9 of this act are effective retroactively to July 1, 2015. Sections 10, 11, and 12 are effective when this act becomes law.

FARRIERS/HORSESHOEING

SECTION 13. G.S. 90-187.10 is amended by adding a new subdivision to read:
"§ 90-187.10. Necessity for license; certain practices exempted.

No person shall engage in the practice of veterinary medicine or own all or part interest in a veterinary medical practice in this State or attempt to do so without having first applied for and obtained a license for such purpose from the North Carolina Veterinary Medical Board, or without having first obtained from the Board a certificate of renewal of license for the calendar year in

1 which the person proposes to practice and until the person shall have been first licensed and
2 registered for such practice in the manner provided in this Article and the rules and regulations of
3 the Board.

4 Nothing in this Article shall be construed to prohibit:

5 ...
6 (11) Any farrier or person actively engaged in the activity or profession of shoeing
7 hooved animals as long as his or her actions are limited to the art of shoeing
8 hooved animals or trimming, clipping, or maintaining hooves."
9

10 WILDLIFE RESOURCES COMMISSION, DIVISION OF MARINE FISHERIES, AND 11 UTILITIES COMMISSION PRIVATE IDENTIFYING INFORMATION

12 SECTION 14.(a) G.S. 143-254.5 reads as rewritten:

13 "§ 143-254.5. Disclosure of personal identifying information.

14 Social security numbers and identifying information obtained by the Commission shall be
15 treated as provided in G.S. 132-1.10. For purposes of this section, "identifying information" also
16 includes a person's mailing address, residence address, e-mail address, Commission-issued
17 customer identification number, date of birth, and telephone number."

18 SECTION 14.(b) G.S. 143B-289.52(h) reads as rewritten:

19 "§ 143B-289.52. Marine Fisheries Commission – powers and duties.

20 ...
21 (h) Social security numbers and identifying information obtained by the Commission or
22 the Division of Marine Fisheries shall be treated as provided in G.S. 132-1.10. For purposes of this
23 subsection, "identifying information" also includes a person's mailing address, residence address,
24 e-mail address, Commission-issued customer identification number, date of birth, and telephone
25 number."

26 SECTION 14.(c) Chapter 132 of the General Statutes is amended by adding a new
27 section to read:

28 "§ 132-1.14. Personally identifiable information of public utility customers.

29 (a) Except as otherwise provided in this section, a public record, as defined by G.S. 132-1,
30 does not include personally identifiable information obtained by the Public Staff of the Utilities
31 Commission from customers requesting assistance from the Public Staff regarding rate or service
32 disputes with a public utility, as defined by G.S. 62-3(23).

33 (b) The Public Staff may disclose personally identifiable information of a customer to the
34 public utility involved in the matter for the purpose of investigating such disputes.

35 (c) Such personally identifiable information is a public record to the extent disclosed by
36 the customer in a complaint filed with the Commission pursuant to G.S. 62-73.

37 (d) For purposes of this section, "personally identifiable information" means the customer's
38 name, physical address, e-mail address, telephone number, and public utility account number."

39 SECTION 14.(d) This section becomes effective October 1, 2016.
40

41 REGULATION AND DISPOSITION OF CERTAIN REPTILES

42 SECTION 15.(a) G.S. 14-419 reads as rewritten:

43 "§ 14-419. Investigation of suspected violations; seizure and examination of reptiles; 44 disposition of reptiles.

45 (a) In any case in which any law-enforcement officer or animal control officer has
46 probable cause to believe that any of the provisions of this Article have been or are about to be
47 violated, it shall be the duty of the officer and the officer is authorized, empowered, and directed
48 to immediately investigate the violation or impending violation and to consult with representatives
49 of the North Carolina Museum of Natural Sciences or the North Carolina Zoological Park or a
50 designated representative of either the Museum or Zoological Park to identify appropriate and safe
51 methods to seize the reptile or reptiles involved, to seize the reptile or reptiles involved, and the

1 officer is authorized and directed to deliver: (i) a reptile believed to be venomous to the North
2 Carolina State Museum of Natural Sciences or to its designated representative for examination for
3 the purpose of ascertaining whether the reptile is regulated under this Article; and, (ii) a reptile
4 believed to be a large constricting snake or crocodilian to the North Carolina Zoological Park or to
5 its designated representative for the purpose of ascertaining whether the reptile is regulated under
6 this Article. In any case in which a law enforcement officer or animal control officer determines
7 that there is an immediate risk to public safety, the officer shall not be required to consult with
8 representatives of the North Carolina Museum of Natural Sciences or the North Carolina
9 Zoological Park as provided by this ~~subsection~~ subsection and may kill the reptile.

10 (b) If the Museum or the Zoological Park or their designated representatives find that a
11 seized reptile is a venomous reptile, large constricting snake, or crocodilian regulated under this
12 Article, the Museum or the Zoological Park or their designated representative shall determine
13 ~~final~~ an interim disposition of the reptile in a manner consistent with the safety of the public, ~~which~~
14 ~~is until a final disposition is determined by a court of competent jurisdiction.~~ In the case of a
15 venomous reptile for which antivenin approved by the United States Food and Drug
16 Administration is not readily available, shall the reptile may be euthanized unless the species is
17 protected under the federal Endangered Species Act of 1973. Where the Museum or the
18 Zoological Park or their designated representative determines euthanasia to be the appropriate
19 interim disposition, or where a reptile seized pursuant to this Article dies of natural or unintended
20 causes, the Museum, the Zoological Park, or their designated representatives shall not be liable to
21 the reptile's owner.

22 (b1) Upon conviction of any offense contained in this Article, the court shall order a final
23 disposition of the confiscated venomous reptiles, large constricting snakes, or crocodilians, which
24 may include the transfer of title to the State of North Carolina and reimbursement for the
25 necessary expenses incurred in the seizure, delivery, and storage thereof.

26 (c) If the Museum or the Zoological Park or their designated representatives find that the
27 reptile is not a venomous reptile, large constricting snake, or crocodilian regulated under this
28 Article, and either no criminal warrants or indictments are initiated in connection with the reptile
29 within 10 days of initial seizure, or a court of law determines that the reptile is not being owned,
30 possessed, used, transported, or trafficked in violation of this Article, then it shall be the duty of
31 the law enforcement officer to return the reptile or reptiles to the person from whom they were
32 seized within 15 days."

33 **SECTION 15.(b)** The North Carolina Department of Natural and Cultural Resources
34 and the North Carolina Wildlife Resources Commission shall jointly study and develop a list of
35 potential designated representatives for the storage and safekeeping of venomous reptiles, large
36 constricting snakes, or crocodilians.

37 **SECTION 15.(c)** The North Carolina Department of Natural and Cultural Resources
38 and the North Carolina Wildlife Resources Commission shall jointly study and develop
39 recommendations for potential procedural and policy changes to improve the regulation of certain
40 reptiles pursuant to Article 55 of Chapter 14 of the General Statutes. The Department and the
41 Commission shall consider public health and safety risks, permitting requirements, exemptions,
42 notification of escape, investigation of suspected violations, seizure and examination of reptiles,
43 disposition of seized reptiles, and any other issues determined relevant to the regulation of certain
44 reptiles. The Department and the Commission shall submit a report, including any legislative
45 recommendations, to the Environmental Review Commission no later than December 31, 2016.

47 **PROVIDE FOR LOW-FLOW DESIGN ALTERNATIVES FOR PUBLIC WATER** 48 **SUPPLY SYSTEMS**

49 **SECTION 16.(a)** 15A NCAC 18C .0409(b)(1) (Daily Flow Requirements). – Until
50 the effective date of the revised permanent rule that the Commission for Public Health is required
51 to adopt pursuant to subsection (c) of this section, the Commission, the Department of Health and

Human Services, and any other political subdivision of the State shall implement 15A NCAC 18C .0409(b)(1) (Daily Flow Requirements) as provided in subsection (b) of this section.

SECTION 16.(b) Implementation. – Notwithstanding the Daily Flow Requirements rates listed in Table No. 1 of 15A NCAC 18C .0409(b)(1) (Daily Flow Requirements), a public water supply system shall be exempt from the Daily Flow Requirements, and any other design flow standards established by the Department or the Commission, provided the flow rates and yields that are less than those required in Table No. 1 of 15A NCAC 18C .0409(b)(1) (Daily Flow Requirements) are (i) achieved through an engineering design that utilizes low-flow fixtures and low-flow reduction technologies and the design is prepared, sealed, and signed by a professional engineer licensed pursuant to Chapter 89C of the General Statutes and (ii) provide for a flow that is sufficient to sustain the water usage required in the engineering design.

SECTION 16.(c) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend 15A NCAC 18C .0409(b)(1) (Daily Flow Requirements), consistent with subsection (b) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (b) of this section. Rules adopted pursuant to this section are not subject to G.S. 150B-21.8 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 16.(d) Sunset. – Subsection (b) of this section expires on the date that rules adopted pursuant to subsection (c) of this section become effective.

CERTAIN AGREEMENT TERMS FOR AGRICULTURAL EMPLOYER'S STATUS DECLARED INVALID

SECTION 17. G.S. 95-79 reads as rewritten:

"§ 95-79. Certain agreements declared illegal.

(a) Any agreement or combination between any employer and any labor union or labor organization whereby persons not members of such union or organization shall be denied the right to work for said employer, or whereby such membership is made a condition of employment or continuation of employment by such employer, or whereby any such union or organization acquires an employment monopoly in any enterprise, is hereby declared to be against the public policy and an illegal combination or conspiracy in restraint of trade or commerce in the State of North Carolina.

(b) Any provision that directly or indirectly conditions the purchase of agricultural ~~products or products~~, the terms of an agreement for the purchase of agricultural ~~products-products~~, or the terms of an agreement not to sue or to settle pending litigation upon an agricultural producer's status as a union or nonunion employer or entry into or refusal to enter into an agreement with a labor union or labor organization is invalid and unenforceable as against public policy in restraint of trade or commerce in the State of North Carolina. For purposes of this subsection, the term "agricultural producer" means any producer engaged in any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938, 29 U.S.C. § 203, or section 3121(g) of the Internal Revenue Code of 1986, 26 U.S.C. § 3121."

COPIES OF CERTAIN PUBLIC RECORDS

SECTION 18.(a) G.S. 132-6.2 reads as rewritten:

"§ 132-6.2. Provisions for copies of public records; fees.

(a) Persons requesting copies of public records may elect to obtain them in any and all media in which the public agency is capable of providing them. No request for copies of public records in a particular medium shall be denied on the grounds that the custodian has made or prefers to make the public records available in another medium. The public agency may assess different fees for different media as prescribed by law.

(a) Notwithstanding subsection (a) of this section, a public agency may satisfy the requirement to provide access to public records and computer databases under G.S. 132-9 by making those public records or computer databases available online in a format that allows a person to download the public record or computer database to obtain a copy. A public agency that provides access to public records or computer databases under this subsection is not required to provide copies through any other method or medium. If a public agency, as a service to the requester, voluntarily elects to provide copies by another method or medium, the public agency may negotiate a reasonable charge for the service with the requester. A public agency satisfying its requirement to provide access to public records and computer databases under G.S. 132-9 by making those public records or computer databases available online in a format that allows a person to obtain a copy by download shall also allow for inspection of any public records also held in a nondigital medium.

(b) Persons requesting copies of public records may request that the copies be certified or uncertified. The fees for certifying copies of public records shall be as provided by law. Except as otherwise provided by law, no public agency shall charge a fee for an uncertified copy of a public record that exceeds the actual cost to the public agency of making the copy. For purposes of this subsection, "actual cost" is limited to direct, chargeable costs related to the reproduction of a public record as determined by generally accepted accounting principles and does not include costs that would have been incurred by the public agency if a request to reproduce a public record had not been made. Notwithstanding the provisions of this subsection, if the request is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of the agency involved, or if producing the record in the medium requested results in a greater use of information technology resources than that established by the agency for reproduction of the volume of information requested, then the agency may charge, in addition to the actual cost of duplication, a special service charge, which shall be reasonable and shall be based on the actual cost incurred for such extensive use of information technology resources or the labor costs of the personnel providing the services, or for a greater use of information technology resources that is actually incurred by the agency or attributable to the agency. If anyone requesting public information from any public agency is charged a fee that the requester believes to be unfair or unreasonable, the requester may ask the State Chief Information Officer or his designee to mediate the dispute.

(c) Persons requesting copies of computer databases may be required to make or submit such requests in writing. Custodians of public records shall respond to all such requests as promptly as possible. If the request is granted, the copies shall be provided as soon as reasonably possible. If the request is denied, the denial shall be accompanied by an explanation of the basis for the denial. If asked to do so, the person denying the request shall, as promptly as possible, reduce the explanation for the denial to writing.

(d) Nothing in this section shall be construed to require a public agency to respond to requests for copies of public records outside of its usual business hours.

(e) Nothing in this section shall be construed to require a public agency to respond to a request for a copy of a public record by creating or compiling a record that does not exist. If a public agency, as a service to the requester, voluntarily elects to create or compile a record, it may negotiate a reasonable charge for the service with the requester. Nothing in this section shall be construed to require a public agency to put into electronic medium a record that is not kept in electronic medium.

(f) For purposes of this section, the following definitions shall apply:

(1) Computer database. – As defined in G.S. 132-6.1(d)(1).

(2) Media or Medium. – A particular form or means of storing information."

SECTION 18.(b) The State Chief Information Officer, in consultation with the State Controller, the Office of State Budget and Management, Local Government Commission, The University of North Carolina, The North Carolina Community College System, The School of

Government at the University of North Carolina at Chapel Hill, the North Carolina League of Municipalities, the North Carolina School Boards Association, and the North Carolina County Commissioners Association, shall report, including any recommendations, to the 2017 Regular Session of the General Assembly on or before February 1, 2017, regarding the development and use of computer databases by State and local agencies and the need for public access to those public records.

SECTION 18.(c) This section becomes effective July 1, 2016.

PROHIBIT CITIES FROM CHARGING FEES FOR UTILITY USE OF RIGHT-OF-WAY

SECTION 19. G.S. 160A-296 reads as rewritten:

"§ 160A-296. Establishment and control of streets; center and edge lines.

(a) A city shall have general authority and control over all public streets, sidewalks, alleys, bridges, and other ways of public passage within its corporate limits except to the extent that authority and control over certain streets and bridges is vested in the Board of Transportation. General authority and control includes but is not limited to all of the following:

- ...
- (6) The power to regulate, license, and prohibit digging in the streets, sidewalks, or alleys, or placing therein or thereon any pipes, poles, wires, fixtures, or appliances of any kind either on, above, or below the surface. To the extent a municipality is authorized under applicable law to impose a fee or charge with respect to activities conducted in its rights-of-way, the fee or charge must apply uniformly and on a competitively neutral and nondiscriminatory basis to all comparable activities by similarly situated users of the rights-of-way. No fee or charge for activities conducted in the right-of-way shall be assessed on businesses listed in G.S. 160A-206(b), except to the extent a city's right-of-way management expenses related to the activities of those businesses exceed distributions under Article 5 of Chapter 105 of the General Statutes.

...."

ALLOW THE FEDERAL GOVERNMENT TO PUMP STANDING STORMWATER FROM FEDERAL LANDS INTO THE OCEAN

SECTION 20. G.S. 143-214.7 is amended by adding a new subsection to read:

"(d3) Notwithstanding any other provision of State law and except as required by federal law, no State agency or unit of local government shall prohibit a unit of the federal government from pumping standing stormwater from federal land that is located landward of a primary dune over the dune and into the ocean. Pursuant to this section, all State agencies and units of local government shall grant all necessary approvals to a unit of the federal government to pump standing stormwater from federal land that is located landward of a primary dune over the dune and into the ocean. Such approvals shall be granted within 24 hours of the request for the approval, and failure to grant an approval within 24 hours shall be deemed as an approval of the request."

DELAY INSURANCE FOR MOPED OWNERS

SECTION 21.(a) Section 10 of S.L. 2015-125 reads as rewritten:

"SECTION 10. Sections 8 and 9 of this act become effective July 1, 2015. The remainder of this act becomes effective July 1, ~~2016~~2017, and applies to offenses committed on or after that date."

SECTION 21.(b) The Department of Insurance shall review which insurance companies provide moped liability insurance, including the typical costs and requirements that must be met by a moped owner in order to obtain moped liability insurance. By December 15, 2016, the Department shall report its findings, including a list of the companies identified as

1 providing moped liability insurance and any legislative recommendations, to the Joint Legislative
2 Transportation Oversight Committee.
3

4 **SEVERABILITY CLAUSE AND EFFECTIVE DATE**

5 **SECTION 22.** If any section or provision of this act is declared unconstitutional or
6 invalid by the courts, it does not affect the validity of this act as a whole or any part other than the
7 part declared to be unconstitutional or invalid.

8 **SECTION 23.** Except as otherwise provided, this act is effective when it becomes
9 law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

D

HOUSE BILL 593

Committee Substitute Favorable 4/21/15

Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/16/16

PROPOSED SENATE COMMITTEE SUBSTITUTE H593-CSSB-25 [v.6]

06/22/2016 05:52:28 PM

Short Title: Amend Environmental & Other Laws.

(Public)

Sponsors:

Referred to:

April 6, 2015

A BILL TO BE ENTITLED

AN ACT TO AMEND CERTAIN ENVIRONMENTAL, NATURAL RESOURCES, AND
OTHER LAWS.

The General Assembly of North Carolina enacts:

PROHIBIT CERTAIN STORMWATER CONTROL MEASURES

SECTION 1.(a) Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to subsection (c) of this section, the Commission and the Department of Environmental Quality shall implement 15A NCAC 02H .0506 (Review of Applications) as provided in subsection (b) of this section.

SECTION 1.(b) Notwithstanding 15A NCAC 02H .0506(b)(5) and 15A NCAC 02H .0506(c)(5), the Director of the Division of Water Resources shall not require the use of on-site stormwater control measures to protect downstream water quality standards, except as required by State or federal law.

SECTION 1.(c) The Environmental Management Commission shall adopt rules to amend 15A NCAC 02H .0506 (Review of Applications) consistent with subsection (b) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (b) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. 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 1.(d) This section is effective when it becomes law. Subsection (b) of this section expires on the date that rules adopted pursuant to subsection (c) of this section become effective.

EXEMPT LANDSCAPING MATERIAL FROM STORMWATER MANAGEMENT REQUIREMENTS

SECTION 2. G.S. 143-214.7(b2) reads as rewritten:

"(b2) For purposes of implementing stormwater programs, "built-upon area" means impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. "Built-upon area" does not include a slatted deck; the water area of a swimming pool; a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four inches



thick over a geotextile fabric; ~~or~~ a trail as defined in G.S. 113A-85 that is either unpaved or paved as long as the pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour).hour); or landscaping material, including, but not limited to, gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not receive the full weight of vehicular traffic. The owner or developer of a property may opt out of any of the exemptions from "built-upon area" set out in this subsection. For State stormwater programs and local stormwater programs approved pursuant to subsection (d) of this section, all of the following shall apply:

- (1) The volume, velocity, and discharge rates of water associated with the one-year, 24-hour storm and the difference in stormwater runoff from the predevelopment and postdevelopment conditions for the one-year, 24-hour storm shall be calculated using any acceptable engineering hydrologic and hydraulic methods.
- (2) Development may occur within the area that would otherwise be required to be placed within a vegetative buffer required by the Commission pursuant to G.S. 143-214.1 and G.S. 143-214.7 to protect classified shellfish waters, outstanding resource waters, and high-quality waters provided the stormwater runoff from the development is collected and treated from the entire impervious area and discharged so that it passes through the vegetative buffer and is managed so that it otherwise complies with all applicable State and federal stormwater management requirements.
- (3) The requirements that apply to development activities within one-half mile of and draining to Class SA waters or within one-half mile of Class SA waters and draining to unnamed freshwater tributaries shall not apply to development activities and associated stormwater discharges that do not occur within one-half mile of and draining to Class SA waters or are not within one-half mile of Class SA waters and draining to unnamed freshwater tributaries."

STORMWATER CONTROL SYSTEM DESIGN REGULATION

SECTION 3.(a) G.S. 143-214.7B reads as rewritten:

"§ 143-214.7B. Fast-track permitting for stormwater management systems.

The Commission shall adopt rules to establish a fast-track permitting process that allows for the issuance of stormwater management system permits without a technical review when the permit applicant (i) complies with the Minimum Design Criteria for stormwater management developed by the Department and (ii) submits a permit application prepared by a qualified professional. In developing the rules, the Commission shall consult with a technical working group that consists of industry experts, engineers, environmental consultants, relevant faculty from The University of North Carolina, and other interested stakeholders. The rules shall, at a minimum, provide for all of the following:

- (1) A process for permit application, review, and determination.
- (2) The types of professionals that are qualified to prepare a permit application submitted pursuant to this section and the types of qualifications such professionals must have. The Commission shall include the following professionals who meet the North Carolina licensing requirements applicable to the type of stormwater management system proposed:
 - a. Landscape architects licensed pursuant to Chapter 89A of the General Statutes.
 - b. Engineers licensed pursuant to Chapter 89C of the General Statutes.
 - c. Geologists licensed pursuant to Chapter 89E of the General Statutes.
 - d. Soil scientists licensed pursuant to Chapter 89F of the General Statutes.
 - e. Any other licensed profession that the Commission deems appropriate.
- (3) A process for ensuring compliance with the Minimum Design Criteria.

- (4) That permits issued pursuant to the fast-track permitting process comply with State water quality standards adopted pursuant to G.S. 143-214.1, 143-214.7, and 143-215.3(a)(1).
- (5) A process for establishing the liability of a qualified professional who prepares a permit application for a stormwater management system that fails to comply with the Minimum Design Criteria."

SECTION 3.(b) The Environmental Management Commission shall amend its rules to implement subsection (a) of this section no later than July 1, 2017.

AMEND STREAM MITIGATION REQUIREMENTS

SECTION 4.(a) The Environmental Management Commission shall amend its rules so that mitigation is not required for losses of 300 linear feet or less of stream bed; for losses of more than 300 linear feet of stream bed, mitigation shall not be required for 300 linear feet of those losses; and a lower mitigation threshold may be applied in the case of a legally binding federal policy. The Commission shall adopt temporary rules as soon as practicable to implement this section.

SECTION 4.(b) During the time period for public comment specified by the Wilmington District of the United States Army Corps of Engineers in its published notice of the proposed 2017 five-year reauthorization of Nationwide Permits issued pursuant to Section 404(e) of the Clean Water Act, the Department of Environmental Quality shall submit written comments to the Washington, D.C., Headquarters and the Wilmington District Office of the United States Army Corps of Engineers on behalf of the State in support of the Wilmington District adopting Regional Conditions that will increase the threshold for the requirement of mitigation for loss of stream bed of perennial or ephemeral/intermittent streams from 150 linear feet to 300 linear feet. The written comments shall include a history of why the current threshold of 150 linear feet exists in North Carolina, shall outline the thresholds that exist in other jurisdictions, and shall note that the State has established a 300 linear foot mitigation threshold.

COASTAL RESOURCES COMMISSION RULES ON TEMPORARY EROSION CONTROL STRUCTURES

SECTION 5.(a) Sections 14.6(p) and 14.6(q) of S.L. 2015-241 are repealed.

SECTION 5.(b) The Coastal Resources Commission shall adopt temporary rules for the use of temporary erosion control structures consistent with the amendments to the temporary erosion control structure rules adopted by the Commission as agenda item CRC-16-23 on May 11, 2016, with any further modifications in the Commission's discretion. The Commission shall also adopt permanent rules to implement this section.

DIRECT THE COASTAL RESOURCES COMMISSION TO AMEND THE SEDIMENT CRITERIA RULE TO EXEMPT SEDIMENT FROM CAPE SHOAL SYSTEMS

SECTION 6.(a) Definitions. – "Sediment Criteria Rule" means 15A NCAC 07H .0312 (Technical Standards for Beach Fill Projects) for purposes of this section and its implementation.

SECTION 6.(b) Sediment Criteria Rule. – Until the effective date of the revised permanent rule that the Coastal Resources Commission is required to adopt pursuant to subsection (d) of this section, the Commission and the Department of Environmental Quality shall implement the Sediment Criteria Rule, as provided in subsection (c) of this section.

SECTION 6.(c) Implementation. – The Commission shall exempt from the permitting requirements of the Sediment Criteria Rule any sediment in the cape shoal systems used as a borrow site and any portion of an oceanfront beach that receives sediment from the cape shoal systems. For purposes of this section, "cape shoal systems" includes the Frying Pan Shoals at Cape Fear, Lookout Shoals at Cape Lookout, and Diamond Shoals at Cape Hatteras.

SECTION 6.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend the Sediment Criteria Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. 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. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

DIVISION OF COASTAL MANAGEMENT TO STUDY CURRENT LONG-TERM EROSION RATES ADJACENT TO TERMINAL GROINS

SECTION 7. The Division of Coastal Management of the Department of Environmental Quality, in consultation with the Coastal Resources Commission, shall study the change in erosion rates directly adjacent to existing and newly constructed terminal groins to determine whether long-term erosion rates, currently in effect in accordance with 15A NCAC 07H .0304 (AECS Within Ocean Hazard Areas) should be adjusted to reflect any mitigation of shoreline erosion resulting from the installation of the terminal groins. The Division shall report on the results of the study to the Environmental Review Commission on or before December 31, 2016.

SOLID WASTE AMENDMENTS

SECTION 8.(a) Section 4.9(a) of S.L. 2015-286 reads as rewritten:

"SECTION 4.9.(a) Section 14.20(a) of S.L. 2015-241 ~~reads as rewritten:~~ is rewritten to read:
...."

SECTION 8.(b) Section 4.9(b) of S.L. 2015-286 reads as rewritten:

"SECTION 4.9.(b) Section ~~14.20(a)~~ 14.20(c) of S.L. 2015-241 ~~reads as rewritten:~~ is rewritten to read:
...."

SECTION 8.(c) Section 4.9(c) of S.L. 2015-286 reads as rewritten:

"SECTION 4.9.(c) Section 14.20(d) of S.L. 2015-241 ~~reads as rewritten:~~ is rewritten to read:
...."

SECTION 8.(d) Section 4.9(d) of S.L. 2015-286 reads as rewritten:

"SECTION 4.9.(d) Section 14.20(f) of S.L. 2015-241 ~~reads as rewritten:~~ is rewritten to read:
...."

SECTION 8.(e) Section 14.20(e) of S.L. 2015-241 reads as rewritten:

"SECTION 14.20.(e) After July 1, 2016, the annual fee due pursuant to ~~G.S. 130A-295.8A(d1), G.S. 130A-295.8(d1),~~ as enacted by Section 14.20(c) of this act, for existing sanitary landfills and transfer stations with a valid permit issued before the date this act becomes effective is equal to the applicable annual fee for the facility as set forth in ~~G.S. 130A-295.8A(d1), G.S. 130A-295.8(d1),~~ as enacted by Section 14.20(c) of this act, less a permittee fee credit. A permittee fee credit exists when the life-of-site permit fee amount is greater than the time-limited permit fee amount. The amount of the permittee fee credit shall be calculated by (i) subtracting the time-limited permit fee amount from the life-of-site permit fee amount due for the same period of time and (ii) multiplying the difference by a fraction, the numerator of which is the number of years remaining in the facility's time-limited permit and the denominator of which is the total number of years covered by the facility's time-limited permit. The amount of the permittee fee credit shall be allocated in equal annual installments over the number of years that constitute the facility's remaining life-of-site, as determined by the Department, unless the

Department accelerates, in its sole discretion, the use of the credit over a shorter period of time. For purposes of this subsection, the following definitions apply:

- (1) Life-of-site permit fee amount. – The amount equal to the sum of all annual fees that would be due under the fee structure set forth in G.S. 130A-295.8A(d1), G.S. 130A-295.8(d1), as enacted by Section 14.20(c) of this act, during the cycle of the facility's permit in effect on July 1, 2016.
- (2) Time-limited permit fee amount. – The amount equal to the sum of the application fee or renewal fee, whichever is applicable, and all annual fees paid or to be paid pursuant to subsections (c) and (d) of G.S. 130A-295.8A, G.S. 130A-295.8, as repealed by Section 14.20(c) of this act, during the cycle of the facility's permit in effect on July 1, 2016.

The Department shall adopt rules to implement this subsection."

SECTION 9.(a) Section 14.20(f) of S.L. 2015-241, as amended by Section 4.9(d) of S.L. 2015-286, reads as rewritten:

"SECTION 14.20.(f) This section becomes effective October 1, 2015. G.S. 130A-294(b1)(2), as amended by subsection (a) of this section, applies to franchise ~~agreements~~ agreements (i) executed on or after October 1, 2015, and (ii) executed on or before October 1, 2015, only if all parties to a valid and operative franchise agreement consent to modify the agreement for the purpose of extending the agreement's duration to the life-of-site of the landfill for which the agreement was executed. The remainder of G.S. 130A-294, as amended by subsection (a) of this section, and G.S. 130A-295.8, as amended by subsection (c) of this section, apply to (i) existing sanitary landfills and transfer stations, with a valid permit issued before the date this act becomes effective, on July 1, 2016, at which point a permittee may choose to apply for a life-of-site permit pursuant to G.S. 130A-294(a2), as amended by Section 14.20(b) of this act, or may choose to apply for a life-of-site permit for the facility when the facility's permit is next subject to renewal after July 1, 2016, (ii) new sanitary landfills and transfer stations, for applications submitted on or after July 1, 2016, and (iii) applications for sanitary landfills or transfer stations submitted before July 1, 2015, and pending on the date this act becomes law shall be evaluated by the Department based on the applicable laws that were in effect on July 1, 2015, and the Department shall not delay in processing such permit applications in consideration of changes made by this act, but such landfills and transfer stations shall be eligible for issuance of life-of-site permits pursuant to G.S. 130A-294(a2), as amended by Section 14.20(b) of this act, on July 1, 2016, at which point a permittee may choose to apply for a life-of-site permit pursuant to G.S. 130A-294(a2), as amended by Section 14.20(b) of this act, or may choose to apply for a life-of-site permit for the facility when the facility's permit is next subject to renewal after July 1, 2016."

SECTION 9.(b) G.S. 130A-294(b1) reads as rewritten:

"(b1)

...

- (2) A person who intends to apply for a new permit for a sanitary landfill shall obtain, prior to applying for a permit, a franchise for the operation of the sanitary landfill from each local government having jurisdiction over any part of the land on which the sanitary landfill and its appurtenances are located or to be located. A local government may adopt a franchise ordinance under G.S. 153A-136 or G.S. 160A-319. A franchise granted for a sanitary landfill ~~shall~~ shall (i) be granted for the life-of-site of the landfill and shall ~~landfill, but for a period not to exceed 60 years, and (ii) include all of the following:~~
 - a. A statement of the population to be served, including a description of the geographic area.
 - b. A description of the volume and characteristics of the waste stream.
 - c. A projection of the useful life of the sanitary landfill.

- d. Repealed by Session Laws 2013-409, s. 8, effective August 23, 2013.
- e. The procedures to be followed for governmental oversight and regulation of the fees and rates to be charged by facilities subject to the franchise for waste generated in the jurisdiction of the franchising entity.
- f. A facility plan for the sanitary landfill that shall include the boundaries of the proposed facility, proposed development of the facility site, the boundaries of all waste disposal units, final elevations and capacity of all waste disposal units, the amount of waste to be received per day in tons, the total waste disposal capacity of the sanitary landfill in tons, a description of environmental controls, and a description of any other waste management activities to be conducted at the facility. In addition, the facility plan shall show the proposed location of soil borrow areas, leachate facilities, and all other facilities and infrastructure, including ingress and egress to the facility.
- (3) Prior to the award of a franchise for the construction or operation of a sanitary landfill, the board of commissioners of the county or counties in which the sanitary landfill is proposed to be located or is located or, if the sanitary landfill is proposed to be located or is located in a city, the governing board of the city shall conduct a public hearing. The board of commissioners of the county or counties in which the sanitary landfill is proposed to be located or is located or, if the sanitary landfill is proposed to be located or is located in a city, the governing board of the city shall provide at least 30 days' notice to the public of the public hearing. The notice shall include a summary of all the information required to be included in the franchise, and shall specify the procedure to be followed at the public hearing. The applicant for the franchise shall provide a copy of the application for the franchise that includes all of the information required to be included in the franchise, to the public library closest to the proposed sanitary landfill site to be made available for inspection and copying by the public. The requirements of this subdivision shall not apply to franchises amended by agreement of the parties to extend the duration of the franchise to the life-of-site of the landfill, but for a period not to exceed 60 years.

..."

SECTION 9.(c) G.S. 160A-319(a) reads as rewritten:

"§ 160A-319. Utility franchises.

(a) A city shall have authority to grant upon reasonable terms franchises for a telephone system and any of the enterprises listed in G.S. 160A-311, except a cable television system. A franchise granted by a city authorizes the operation of the franchised activity within the city. No franchise shall be granted for a period of more than 60 years, ~~except including a franchise granted to a sanitary landfill for the life-of-site of the landfill pursuant to G.S. 130A-294(b1); provided, however, that a franchise for solid waste collection or disposal systems and facilities-facilities, other than sanitary landfills,~~ shall not be granted for a period of more than 30 years. Except as otherwise provided by law, when a city operates an enterprise, or upon granting a franchise, a city may by ordinance make it unlawful to operate an enterprise without a franchise."

SECTION 9.(d) G.S. 153A-136 reads as rewritten:

"§ 153A-136. Regulation of solid wastes.

(a) A county may by ordinance regulate the storage, collection, transportation, use, disposal, and other disposition of solid wastes. Such an ordinance may:

...

- (3) Grant a franchise to one or more persons for the exclusive right to commercially collect or dispose of solid wastes within all or a defined portion

of the county and prohibit any other person from commercially collecting or disposing of solid wastes in that area. The board of commissioners may set the terms of any franchise, ~~except that no franchise may be granted for a period exceeding 30 years, nor may any franchise; provided, however, no franchise shall be granted for a period of more than 30 years, except for a franchise granted to a sanitary landfill for the life-of-site of the landfill pursuant to G.S. 130A-294(b1), which may not exceed 60 years.~~ No franchise by its terms may impair the authority of the board of commissioners to regulate fees as authorized by this section.

...."

SECTION 9.(e) Section 9(a) of this act applies to franchise agreements (i) executed on or after October 1, 2015, and (ii) executed on or before October 1, 2015, only if all parties to a valid and operative agreement consent to modify the agreement for the purpose of extending the agreement's duration of the life-of-site of the landfill for which the agreement was executed.

SECTION 10. The Division of Waste Management of the Department of Environmental Quality shall examine whether solid waste management activities in the State are being conducted in a manner most beneficial to the citizens of the State in terms of efficiency and cost-effectiveness, with a focus on solid waste disposal capacity across the State, particularly, areas of the State that have insufficient disposal capacity, as well as areas of the State with disposal capacity that is underutilized, resulting in transport of waste to other jurisdictions. The Department shall develop economic estimates of the short- and long-term costs of waste transport in these situations versus full utilization of capacity, or expansion of capacity, in the originating jurisdiction. The Department shall also provide information on landfill capacity that is permitted but not yet constructed and expansion opportunities for future landfill capacity. The Department shall submit a report, including any legislative recommendations, to the Environmental Review Commission no later than December 31, 2016.

SECTION 11. G.S. 130A-294(a) reads as rewritten:

"§ 130A-294. Solid waste management program.

(a) The Department is authorized and directed to engage in research, conduct investigations and surveys, make inspections and establish a statewide solid waste management program. In establishing a program, the Department shall have authority to:

...

- (4) a. Develop a permit system governing the establishment and operation of solid waste management facilities. A landfill with a disposal area of 1/2 acre or less for the on-site disposal of land clearing and inert debris is exempt from the permit requirement of this section and shall be governed by G.S. 130A-301.1. Demolition debris from the decommissioning of manufacturing buildings, including electric generating stations, that is disposed of on the same site as the decommissioned buildings, is exempt from the permit requirement of this section and rules adopted pursuant to this section and shall be governed by G.S. 130A-301.3. The Department shall not approve an application for a new permit, major permit modification, or a substantial amendment to a permit for a sanitary landfill, excluding demolition landfills as defined in the rules of the Commission, except as provided in subdivisions (3) and (4) of subsection (b1) of this section. No permit shall be granted for a solid waste management facility having discharges that are point sources until the Department has referred the complete plans and specifications to the Commission and has received advice in writing that the plans and specifications are approved in accordance with the provisions of G.S. 143-215.1. In any case where the

1 Department denies a permit for a solid waste management facility, it
2 shall state in writing the reason for denial and shall also state its
3 estimate of the changes in the applicant's proposed activities or plans
4 that will be required for the applicant to obtain a permit.

5 b. Repealed by Session Laws 2007-550, s. 1(a), effective August 1, 2007.

6 c. The Department shall deny an application for a permit for a solid waste
7 management facility if the Department finds that:

8 1. Construction or operation of the proposed facility would be
9 inconsistent with or violate rules adopted by the Commission.

10 2. Construction or operation of the proposed facility would result in
11 a violation of water quality standards adopted by the
12 Commission pursuant to G.S. 143-214.1 for waters, as defined in
13 G.S. 143-213.

14 3. Construction or operation of the facility would result in
15 significant damage to ecological systems, natural resources,
16 cultural sites, recreation areas, or historic sites of more than local
17 significance. These areas include, but are not limited to, national
18 or State parks or forests; wilderness areas; historic sites;
19 recreation areas; segments of the natural and scenic rivers
20 system; wildlife refuges, preserves, and management areas; areas
21 that provide habitat for threatened or endangered species;
22 primary nursery areas and critical fisheries habitat designated by
23 the Marine Fisheries Commission; and Outstanding Resource
24 Waters designated by the Commission.

25 4. Construction or operation of the proposed facility would
26 substantially limit or threaten access to or use of public trust
27 waters or public lands.

28 5. The proposed facility would be located in a natural hazard area,
29 including a floodplain, a landslide hazard area, or an area subject
30 to storm surge or excessive seismic activity, such that the facility
31 will present a risk to public health or safety.

32 6. There is a practical alternative that would accomplish the
33 purposes of the proposed facility with less adverse impact on
34 public resources, considering engineering requirements and
35 economic costs.

36 7. The cumulative impacts of the proposed facility and other
37 facilities in the area of the proposed facility would violate the
38 criteria set forth in sub-sub-subdivisions 2. through 5. of this
39 sub-subdivision.

40 8. Construction or operation of the proposed facility would be
41 inconsistent with the State solid waste management policy and
42 goals as set out in G.S. 130A-309.04 and with the State solid
43 waste management plan developed as provided in
44 G.S. 130A-309.07.

45 9. The cumulative impact of the proposed facility, when considered
46 in relation to other similar impacts of facilities located or
47 proposed in the community, would have a disproportionate
48 adverse impact on a minority or low-income community
49 protected by Title VI of the federal Civil Rights Act of 1964.
50 This subdivision shall apply only to the extent required by
51 federal law.

- d. Management of land clearing debris burned in accordance with 15A NCAC 02D.1903 shall not require a permit pursuant to this section.
- e. For the purpose of the disposal of leachate and wastewater collected from a sanitary landfill, the Department shall approve aerosolization of such leachate and wastewater as an acceptable method of disposal. Aerosolization of leachate or wastewater that results in effluent free-production or a zero liquid discharge does not constitute a discharge that requires a permit under either Article 21 or Article 21B of Chapter 143 of the General Statutes."

SECTION 12. Except as otherwise provided, Sections 8 and 9 of this act are effective retroactively to July 1, 2015. Sections 10, 11, and 12 are effective when this act becomes law.

FARRIERS/HORSESHOEING

SECTION 13. G.S. 90-187.10 is amended by adding a new subdivision to read:

"§ 90-187.10. Necessity for license; certain practices exempted.

No person shall engage in the practice of veterinary medicine or own all or part interest in a veterinary medical practice in this State or attempt to do so without having first applied for and obtained a license for such purpose from the North Carolina Veterinary Medical Board, or without having first obtained from the Board a certificate of renewal of license for the calendar year in which the person proposes to practice and until the person shall have been first licensed and registered for such practice in the manner provided in this Article and the rules and regulations of the Board.

Nothing in this Article shall be construed to prohibit:

- ...
- (11) Any farrier or person actively engaged in the activity or profession of shoeing hooved animals as long as his or her actions are limited to the art of shoeing hooved animals or trimming, clipping, or maintaining hooves."

WILDLIFE RESOURCES COMMISSION, DIVISION OF MARINE FISHERIES, AND UTILITIES COMMISSION PRIVATE IDENTIFYING INFORMATION

SECTION 14.(a) G.S. 143-254.5 reads as rewritten:

"§ 143-254.5. Disclosure of personal identifying information.

Social security numbers and identifying information obtained by the Commission shall be treated as provided in G.S. 132-1.10. For purposes of this section, "identifying information" also includes a person's mailing address, residence address, e-mail address, Commission-issued customer identification number, date of birth, and telephone number."

SECTION 14.(b) G.S. 143B-289.52(h) reads as rewritten:

"§ 143B-289.52. Marine Fisheries Commission – powers and duties.

...

(h) Social security numbers and identifying information obtained by the Commission or the Division of Marine Fisheries shall be treated as provided in G.S. 132-1.10. For purposes of this subsection, "identifying information" also includes a person's mailing address, residence address, e-mail address, Commission-issued customer identification number, date of birth, and telephone number."

SECTION 14.(c) Chapter 132 of the General Statutes is amended by adding a new section to read:

"§ 132-1.14. Personally identifiable information of public utility customers.

(a) Except as otherwise provided in this section, a public record, as defined by G.S. 132-1, does not include personally identifiable information obtained by the Public Staff of the Utilities Commission from customers requesting assistance from the Public Staff regarding rate or service disputes with a public utility, as defined by G.S. 62-3(23).

(b) The Public Staff may disclose personally identifiable information of a customer to the public utility involved in the matter for the purpose of investigating such disputes.

(c) Such personally identifiable information is a public record to the extent disclosed by the customer in a complaint filed with the Commission pursuant to G.S. 62-73.

(d) For purposes of this section, "personally identifiable information" means the customer's name, physical address, e-mail address, telephone number, and public utility account number."

SECTION 14.(d) This section becomes effective October 1, 2016.

REGULATION AND DISPOSITION OF CERTAIN REPTILES

SECTION 15.(a) G.S. 14-419 reads as rewritten:

"§ 14-419. Investigation of suspected violations; seizure and examination of reptiles; disposition of reptiles.

(a) In any case in which any law-enforcement officer or animal control officer has 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 the officer and the officer is authorized, empowered, and directed to immediately investigate the violation or impending violation and to consult with representatives of the North Carolina Museum of Natural Sciences or the North Carolina Zoological Park or a designated representative of either the Museum or Zoological Park to identify appropriate and safe methods to seize the reptile or reptiles involved, to seize the reptile or reptiles involved, and the officer is authorized and directed to deliver: (i) a reptile believed to be venomous to the North Carolina State Museum of Natural Sciences or to its designated representative for examination for the purpose of ascertaining whether 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 or to its designated representative for the purpose of ascertaining whether the reptile is regulated under this Article. In any case in which a law enforcement officer or animal control officer determines that there is an immediate risk to public safety, the officer shall not be required to consult with representatives of the North Carolina Museum of Natural Sciences or the North Carolina Zoological Park as provided by this ~~subsection~~ subsection and may kill the reptile.

(b) If the Museum or the Zoological Park or their designated representatives find that a seized reptile is a venomous reptile, large constricting snake, or crocodilian regulated under this Article, the Museum or the Zoological Park or their designated representative shall determine ~~final~~ an interim disposition of the reptile in a manner consistent with the safety of the public, ~~which~~ until a final disposition is determined by a court of competent jurisdiction. In the case of a venomous reptile for which antivenin approved by the United States Food and Drug Administration is not readily available, ~~shall the reptile may~~ be euthanized unless the species is protected under the federal Endangered Species Act of 1973. Where the Museum or the Zoological Park or their designated representative determines euthanasia to be the appropriate interim disposition, or where a reptile seized pursuant to this Article dies of natural or unintended causes, the Museum, the Zoological Park, or their designated representatives shall not be liable to the reptile's owner.

(b1) Upon conviction of any offense contained in this Article, the court shall order a final disposition of the confiscated venomous reptiles, large constricting snakes, or crocodilians, which may include the transfer of title to the State of North Carolina and reimbursement for the necessary expenses incurred in the seizure, delivery, and storage thereof.

(c) If the Museum or the Zoological Park or their designated representatives find that the 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 the law enforcement officer to return the reptile or reptiles to the person from whom they were seized within 15 days."

1 **SECTION 15.(b)** The North Carolina Department of Natural and Cultural Resources
2 and the North Carolina Wildlife Resources Commission shall jointly study and develop a list of
3 potential designated representatives for the storage and safekeeping of venomous reptiles, large
4 constricting snakes, or crocodilians.

5 **SECTION 15.(c)** The North Carolina Department of Natural and Cultural Resources
6 and the North Carolina Wildlife Resources Commission shall jointly study and develop
7 recommendations for potential procedural and policy changes to improve the regulation of certain
8 reptiles pursuant to Article 55 of Chapter 14 of the General Statutes. The Department and the
9 Commission shall consider public health and safety risks, permitting requirements, exemptions,
10 notification of escape, investigation of suspected violations, seizure and examination of reptiles,
11 disposition of seized reptiles, and any other issues determined relevant to the regulation of certain
12 reptiles. The Department and the Commission shall submit a report, including any legislative
13 recommendations, to the Environmental Review Commission no later than December 31, 2016.

14
15 **PROVIDE FOR LOW-FLOW DESIGN ALTERNATIVES FOR PUBLIC WATER**
16 **SUPPLY SYSTEMS**

17 **SECTION 16.(a)** 15A NCAC 18C .0409(b)(1) (Daily Flow Requirements). – Until
18 the effective date of the revised permanent rule that the Commission for Public Health is required
19 to adopt pursuant to subsection (c) of this section, the Commission, the Department of
20 Environmental Quality, and any other political subdivision of the State shall implement 15A
21 NCAC 18C .0409(b)(1) (Daily Flow Requirements) as provided in subsection (b) of this section.

22 **SECTION 16.(b)** Implementation. – Notwithstanding the Daily Flow Requirements
23 rates listed in Table No. 1 of 15A NCAC 18C .0409(b)(1) (Daily Flow Requirements), a public
24 water supply system shall be exempt from the Daily Flow Requirements, and any other design
25 flow standards established by the Department or the Commission, provided the flow rates that are
26 less than those required in Table No. 1 of 15A NCAC 18C .0409(b)(1) (Daily Flow Requirements)
27 are (i) achieved through an engineering design that utilizes low-flow fixtures and low-flow
28 reduction technologies and the design is prepared, sealed, and signed by a professional engineer
29 licensed pursuant to Chapter 89C of the General Statutes and (ii) provide for a flow that is
30 sufficient to sustain the water usage required in the engineering design.

31 **SECTION 16.(c)** Additional Rule-Making Authority. – The Commission shall adopt a
32 rule to amend 15A NCAC 18C .0409(b)(1) (Daily Flow Requirements), consistent with subsection
33 (b) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission
34 pursuant to this section shall be substantively identical to the provisions of subsection (b) of this
35 section. Rules adopted pursuant to this section are not subject to G.S. 150B-21.8 through
36 G.S. 150B-21.14. Rules adopted pursuant to this section shall become effective as provided in
37 G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by
38 G.S. 150B-21.3(b2).

39 **SECTION 16.(d)** Sunset. – Subsection (b) of this section expires on the date that rules
40 adopted pursuant to subsection (c) of this section become effective.

41
42 **COPIES OF CERTAIN PUBLIC RECORDS**

43 **SECTION 18.(a)** G.S. 132-6.2 reads as rewritten:
44 **"§ 132-6.2. Provisions for copies of public records; fees.**

45 (a) Persons requesting copies of public records may elect to obtain them in any and all
46 media in which the public agency is capable of providing them. No request for copies of public
47 records in a particular medium shall be denied on the grounds that the custodian has made or
48 prefers to make the public records available in another medium. The public agency may assess
49 different fees for different media as prescribed by law.

50 (a1) Notwithstanding subsection (a) of this section, a public agency may satisfy the
51 requirement to provide access to public records and computer databases under G.S. 132-6 by

1 making those public records or computer databases available online in a format that allows a
2 person to download the public record or computer database to obtain a copy. A public agency that
3 provides access to public records or computer databases under this subsection is not required to
4 provide copies through any other method or medium. If a public agency, as a service to the
5 requester, voluntarily elects to provide copies by another method or medium, the public agency
6 may negotiate a reasonable charge for the service with the requester. A public agency satisfying its
7 requirement to provide access to public records and computer databases under G.S. 132-6 by
8 making those public records or computer databases available online in a format that allows a
9 person to obtain a copy by download shall also allow for inspection of any public records also held
10 in a nondigital medium.

11 (b) Persons requesting copies of public records may request that the copies be certified or
12 uncertified. The fees for certifying copies of public records shall be as provided by law. Except as
13 otherwise provided by law, no public agency shall charge a fee for an uncertified copy of a public
14 record that exceeds the actual cost to the public agency of making the copy. For purposes of this
15 subsection, "actual cost" is limited to direct, chargeable costs related to the reproduction of a
16 public record as determined by generally accepted accounting principles and does not include
17 costs that would have been incurred by the public agency if a request to reproduce a public record
18 had not been made. Notwithstanding the provisions of this subsection, if the request is such as to
19 require extensive use of information technology resources or extensive clerical or supervisory
20 assistance by personnel of the agency involved, or if producing the record in the medium
21 requested results in a greater use of information technology resources than that established by the
22 agency for reproduction of the volume of information requested, then the agency may charge, in
23 addition to the actual cost of duplication, a special service charge, which shall be reasonable and
24 shall be based on the actual cost incurred for such extensive use of information technology
25 resources or the labor costs of the personnel providing the services, or for a greater use of
26 information technology resources that is actually incurred by the agency or attributable to the
27 agency. If anyone requesting public information from any public agency is charged a fee that the
28 requester believes to be unfair or unreasonable, the requester may ask the State Chief Information
29 Officer or his designee to mediate the dispute.

30 (c) Persons requesting copies of computer databases may be required to make or submit
31 such requests in writing. Custodians of public records shall respond to all such requests as
32 promptly as possible. If the request is granted, the copies shall be provided as soon as reasonably
33 possible. If the request is denied, the denial shall be accompanied by an explanation of the basis
34 for the denial. If asked to do so, the person denying the request shall, as promptly as possible,
35 reduce the explanation for the denial to writing.

36 (d) Nothing in this section shall be construed to require a public agency to respond to
37 requests for copies of public records outside of its usual business hours.

38 (e) Nothing in this section shall be construed to require a public agency to respond to a
39 request for a copy of a public record by creating or compiling a record that does not exist. If a
40 public agency, as a service to the requester, voluntarily elects to create or compile a record, it may
41 negotiate a reasonable charge for the service with the requester. Nothing in this section shall be
42 construed to require a public agency to put into electronic medium a record that is not kept in
43 electronic medium.

44 (f) For purposes of this section, the following definitions shall apply:

45 (1) Computer database. – As defined in G.S. 132-6.1(d)(1).

46 (2) Media or Medium. – A particular form or means of storing information."

47 **SECTION 18.(b)** The State Chief Information Officer, in consultation with the State
48 Controller, the Office of State Budget and Management, Local Government Commission, The
49 University of North Carolina, The North Carolina Community College System, The School of
50 Government at the University of North Carolina at Chapel Hill, the North Carolina League of
51 Municipalities, the North Carolina School Boards Association, and the North Carolina County

Commissioners Association, shall report, including any recommendations, to the 2017 Regular Session of the General Assembly on or before February 1, 2017, regarding the development and use of computer databases by State and local agencies and the need for public access to those public records.

SECTION 18.(c) This section becomes effective July 1, 2016.

PROHIBIT CITIES FROM CHARGING FEES FOR UTILITY USE OF RIGHT-OF-WAY

SECTION 19. G.S. 160A-296 reads as rewritten:

"§ 160A-296. Establishment and control of streets; center and edge lines.

(a) A city shall have general authority and control over all public streets, sidewalks, alleys, bridges, and other ways of public passage within its corporate limits except to the extent that authority and control over certain streets and bridges is vested in the Board of Transportation. General authority and control includes but is not limited to all of the following:

- ...
- (6) The power to regulate, license, and prohibit digging in the streets, sidewalks, or alleys, or placing therein or thereon any pipes, poles, wires, fixtures, or appliances of any kind either on, above, or below the surface. To the extent a municipality is authorized under applicable law to impose a fee or charge with respect to activities conducted in its rights-of-way, the fee or charge must apply uniformly and on a competitively neutral and nondiscriminatory basis to all comparable activities by similarly situated users of the rights-of-way. No fee or charge for activities conducted in the right-of-way shall be assessed on businesses listed in G.S. 160A-206(b), except to the extent a city's right-of-way management expenses related to the activities of those businesses exceed distributions under Article 5 of Chapter 105 of the General Statutes.

...."

ALLOW THE FEDERAL GOVERNMENT TO PUMP STANDING STORMWATER FROM FEDERAL LANDS INTO THE OCEAN

SECTION 20. G.S. 143-214.7 is amended by adding a new subsection to read:

"(d3) Notwithstanding any other provision of State law and except as required by federal law, no State agency or unit of local government shall prohibit a unit of the federal government from pumping standing stormwater from federal land that is located landward of a primary dune over the dune and into the ocean. Pursuant to this section, all State agencies and units of local government shall grant all necessary approvals to a unit of the federal government to pump standing stormwater from federal land that is located landward of a primary dune over the dune and into the ocean. Such approvals shall be granted within 24 hours of the request for the approval, and failure to grant an approval within 24 hours shall be deemed as an approval of the request."

SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 21. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

SECTION 22. Except as otherwise provided, this act is effective when it becomes law.





HOUSE BILL 593: Amend Environmental & Other Laws.

2016-2017 General Assembly

Committee: Senate Rules and Operations of the Senate
Introduced by:
Analysis of: PCS to Third Edition
H593-CSSB-25

Date: June 23, 2016
Prepared by: Jeff Hudson,
Erika Churchill,
Jennifer McGinnis,
Jennifer Mundt,
Chris Saunders, and
Layla Cummings
Legislative Staff

SUMMARY: *The Proposed Committee Substitute for House Bill 593 (PCS) would amend a number of State laws related to environmental, natural resources, and other regulations.*

The PCS makes the following changes from the Third Edition:

- *Deletes the bill section that would have declared certain agreement terms for agricultural employer's status invalid.*
- *Deletes the bill section that delayed the effective date for requiring moped liability insurance.*
- *Modifies provisions in the bill that address franchise agreements for sanitary landfills to provide that a public hearing would not be required to modify such an agreement to extend its duration to a landfill's life-of-site.*
- *Makes technical changes to the provision in the bill that addresses low-flow design alternatives for public water supply systems.*
- *Makes technical changes to the provision in the bill that provides an alternative method for a public agency to provide public records.*

BILL ANALYSIS:

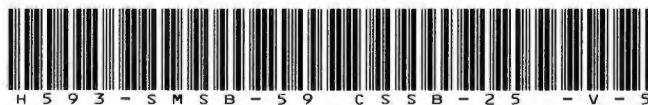
PROHIBIT CERTAIN STORMWATER CONTROL MEASURES

Section 1 would prohibit the Director of the Division of Water Resources in the Department of Environmental Quality (DEQ) from requiring the use of on-site stormwater control measures to protect downstream water quality standards unless required to do so by State or federal law.

EXEMPT LANDSCAPING MATERIAL FROM STORMWATER MANAGEMENT REQUIREMENTS

Section 2 would exempt from the definition of built-upon area for purposes of implementing stormwater programs, landscaping material, including but not limited to gravel, mulch, sand, and vegetation, placed

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 593

Page 2

on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not receive the full weight of vehicular traffic. Section 2 would also allow the owner or developer of property to opt out of any of the exemptions from built-upon area.

STORMWATER CONTROL SYSTEM DESIGN REGULATION

Section 3 would amend the statutes governing fast-track permitting for stormwater management to direct the Environmental Management Commission to revise its rules, by July 1, 2017, to include the following licensed professionals as qualified to prepare a stormwater management system permit without a technical review, so long as the application complies with the Minimum Design Criteria:

- Landscape architects.
- Professional engineers.
- Geologists.
- Soil scientists.
- Any other licensed professional that the EMC deems appropriate.

AMEND STREAM MITIGATION REQUIREMENTS

Section 4 would direct the Environmental Management Commission to amend its rules so that mitigation is not required for losses of 300 linear feet or less of stream bed; for losses of more than 300 linear feet of stream bed, mitigation shall not be required for 300 linear feet of those losses; and a lower mitigation threshold may be applied in the case of a legally binding federal policy. Section 4 would also direct DEQ to submit comments to the United States Army Corps of Engineers in support of the Corps increasing the threshold for mitigation from 150 linear feet to 300 linear feet.

COASTAL RESOURCES COMMISSION RULES ON TEMPORARY EROSION CONTROL STRUCTURES

Section 5 would repeal a directive in the 2015 Appropriations Act that required the Coastal Resources Commission (CRC) to adopt updated rules for the use of sandbags by December 2015. The updated rules were approved at the May 2016 meeting of the CRC. This section would direct the CRC to adopt those rules as temporary rules.

DIRECT THE COASTAL RESOURCES COMMISSION TO AMEND THE SEDIMENT CRITERIA RULE TO EXEMPT SEDIMENT FROM CAPE SHOAL SYSTEMS

Section 6 would direct the CRC to amend the sediment criteria rule to allow sand from the cape shoals to be used as ocean beach nourishment without undergoing permitting requirements. Sand used for beach nourishment must be similar in quality and grain size as the area being nourished and the rule requires sediment samples to be taken from both the borrow site and recipient beach to determine if the sediment source is compatible.

DIVISION OF COASTAL MANAGEMENT TO STUDY CURRENT LONG-TERM EROSION RATES ADJACENT TO TERMINAL GROINS

Section 7 would direct the Division of Coastal Management in DEQ, in consultation with the CRC, to study whether the long-term erosion rates should be modified in and around newly constructed terminal groins. Long-term erosion rates are evaluated by the Division about every five years and are used to determine setbacks for oceanfront development.

SOLID WASTE AMENDMENTS

Sections 8 and 9 would: (i) make technical, clarifying, and conforming changes to provisions enacted in 2015 to establish life-of-site permits for sanitary landfills and transfer stations; (ii) provide that franchise

House PCS 593

Page 3

agreements previously executed by local governments for sanitary landfills may be modified by agreement of all parties to a valid and operative franchise to last for a landfill's life-of-site; (iii) provide that a public hearing would not be required for a franchise modified to extend the duration of the franchise to the life-of-site of a landfill, and (iv) provide that no franchise agreement for a sanitary landfill, modified or newly executed, shall exceed a duration of 60 years.

Section 10 would require the Division of Waste Management in DEQ to study landfill capacity and usage issues, as well as cost issues associated with transport of waste due to lack of, or underutilized, landfill capacity in a jurisdiction. The Department must submit a report, including any legislative recommendations, to the Environmental Review Commission (ERC) by December 31, 2016.

Section 11 would modify the statute governing permitting authority of DEQ over establishment and operation of solid waste management facilities to require the Department to approve aerosolization as an acceptable method of disposal for leachate wastewater collected from a sanitary landfill. In addition, this section would provide that aerosolization of leachate or wastewater that results in effluent free-production or a zero liquid discharge does not constitute a discharge that requires a permit under the air or water permitting statutes.

Section 12 would provide that Sections 8 and 9 would be effective retroactively to July 1, 2015, and that Sections 10 and 11 would become effective when the act becomes law.

FARRIERS/HORSESHOEING

Section 13 would clarify that a farrier or any person engaged in the activity or profession of shoeing hooved animals does not require a license from the North Carolina Veterinary Medical Board, provided that the person's actions are limited to shoeing hooved animals or trimming, clipping, or maintaining hooves.

WILDLIFE RESOURCES COMMISSION, DIVISION OF MARINE FISHERIES, AND UTILITIES COMMISSION PRIVATE IDENTIFYING INFORMATION

Section 14 would, effective October 1, 2016, provide that customer e-mail addresses received, and customer identification numbers issued, by the Wildlife Resources Commission (WRC) and the Marine Fisheries Commission are considered "identifying information" and may not be made available to the public. This section would also provide that any customer's name, physical address, email address, telephone number, or public utility account number received by the Public Staff of the Utilities Commission is not a public record, and may only be disclosed for the purpose of investigating a complaint against a public utility by the customer.

REGULATION AND DISPOSITION OF CERTAIN REPTILES

Section 15.(a) would provide that if the North Carolina Museum of Natural Sciences (Museum) or the North Carolina Zoological Park (Zoo) finds that a seized illegally-owned reptile is a venomous reptile, large constricting snake, or a regulated crocodilian, the Museum or the Zoo must determine the interim disposition of the seized reptile until a final disposition is determined by a court. The Museum or Zoo are not liable to the owner of the reptile if the Museum or Zoo determines euthanasia to be the appropriate interim disposition, or if the seized reptile dies of natural or unintended causes. Upon conviction of any violation of Article 55 of Chapter 14 of the General Statutes (Regulation of Venomous Reptiles), the court shall issue a final disposition of the confiscated reptiles, which may include transfer of title to the State of North Carolina and reimbursement for the cost of seizure, delivery, and storage of the reptiles. This section would also authorize law enforcement officers or animal control officers to kill a dangerous reptile if the officer determines that there is an immediate threat to public safety.

House PCS 593

Page 4

Section 15.(b) would direct the Department of Natural and Cultural Resources (DNCR) and WRC to study and develop a list of potential designated representatives for the storage and safekeeping of venomous reptiles, large constricting snakes, or crocodilians.

Section 15.(c) would direct DNCR and WRC to study and make recommendations to the ERC by December 1, 2016, on potential procedural and policy changes to improve the regulation of dangerous reptiles.

PROVIDE FOR LOW-FLOW DESIGN ALTERNATIVES FOR PUBLIC WATER SUPPLY SYSTEMS

Section 16 would amend the North Carolina Administrative Code to exempt a public water supply system from the Daily Flow Requirements as provided by Table No. 1 of 15A NCAC 18C .0409(b)(1), provided the flow rates that are less than those required by the rule are (i) achieved through an engineering design that utilizes low-flow fixtures and low-flow reduction technologies and the design is prepared, sealed, and signed by a professional engineer licensed pursuant to Chapter 89C of the General Statutes and (ii) provide for a flow that is sufficient to sustain the water usage required in the engineering design.

COPIES OF CERTAIN PUBLIC RECORDS

Section 18 would, effective July 1, 2016, provide that a public agency that makes its public records and computer databases available online, in a format that is downloadable, satisfies the requirement to allow persons access to public records, and is not required to provide copies through any other method or medium. That public agency may, but is not required to, provide copies by another method or in another medium and may negotiate a charge for that service if they so opt.

PROHIBIT CITIES FROM CHARGING FEES FOR UTILITY USE OF RIGHT-OF-WAY

Section 19 would prohibit a city from imposing a fee on gas, telecommunications, electricity, or video programming utilities for activities conducted in a right-of-way, unless the costs for those activities exceeds the amount the city has collected for sales and use tax.

ALLOW THE FEDERAL GOVERNMENT TO PUMP STANDING STORMWATER FROM FEDERAL LANDS INTO THE OCEAN

Section 20 would provide that except that as required by federal law, no State agency or unit of local government may prohibit a unit of the federal government from pumping standing stormwater from federal land into the ocean.

SEVERABILITY CLAUSE AND EFFECTIVE DATE

Section 21 contains a severability clause.

EFFECTIVE DATE: Except as otherwise provided, this act would be effective when it becomes law.

Senate Pages Attending

COMMITTEE: Rules ROOM: 1027
DATE: 6-23 TIME: 8:45

PLEASE PRINT LEGIBLY!!!!!!!!!!!!!!....or else!!!!

	Page Name	Hometown	Sponsoring Senator
1.	Ashlyn Pratt	W-S	Krawiec
2.	Sarah Sharpe	Hickory	Daniel
3.	Dalton McLamb	Greensboro Greensboro	Berger
4.			
5.			
6.			
7.			
8.			

Pages: Present this form to either the Committee Clerk at the meeting or to the Sgt-at-Arms.



VISITOR REGISTRATION SHEET

(Committee Name)

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY</u>
Lexi Anthun	NURMA
Elizabeth Pearson	NURMA
Ken Melton	KMA
John Rustin	NCFPC
Jere Royall	II
Adam Pridmore	NCRBA
Gene Mildwurt	NCSA
Tim Lucas	NCRB
Edith Davis	NC Reinsurance Facility
Mickey Spivey	Young Moore and Anderson PA



VISITOR REGISTRATION SHEET

(Committee Name)

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY</u>
David McHuan	NLPC
Carson Huie	MVA
Sarah Hardin	CTL
Henry Jones	Gordon Price
Jon Warr	" "
Aaron Oxendine	DACS
Susan Vuch	Duke Energy
Kathryn Hawkins	Duke Energy



MINUTES

Rules and Operations of the Senate

June 24, 2016


The Rules and Operations of the Senate committee met on June 24, 2016 at 12:30 p.m. The meeting was held in room 1027/1028 of the Legislative Building. Fourteen members of the committee were present. Senator Tom Apodaca presided.

Senator Apodaca introduced the Pages and the Sergeant at Arms.

Senator Apodaca brought forth the items on the agenda:

HB3: Eminent Domain – Senator Brock moved to bring the PCS before the committee. Motion carried. Representative McGrady explained part one of the PCS. Senator Apodaca opened up the floor for questions. Senators Jackson and Rabon explained part two of the PCS. Senator Brock explained section three of the PCS. Senator Barefoot moved for a favorable report to the PCS, unfavorable to the original bill. Motion carried.

The meeting adjourned at 1:06 p.m.



Senator Tom Apodaca, Presiding



Laura Kilian, Committee Assistant



Senate Committee on Rules and Operations of the Senate
Friday, June 24, 2016, 12:30 PM
1027/1128 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE
HB 3	Eminent Domain.

SPONSOR
Representative McGrady
Representative Stam
Representative Lewis
Representative Goodman

Presentations

Other Business

Adjournment



Principal Clerk
Reading Clerk

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Rules and Operations of the Senate** will meet at the following time:

DAY	DATE	TIME	ROOM
Friday	June 24, 2016	12:30 PM	1027/1128 LB

The following will be considered:

BILL NO.	SHORT TITLE
HB 3	Eminent Domain.

SPONSOR
Representative McGrady
Representative Stam
Representative Lewis
Representative Goodman

Senator Tom Apodaca, Chair



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT
Senator Apodaca, Co-Chair**

Friday, June 24, 2016

Senator Apodaca,
submits the following with recommendations as to passage:

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE
SUBSTITUTE BILL**

HB 3

Eminent Domain.

Draft Number:	H3-PCS40682-TG-58
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator E. S. (Buck) Newton will handle HB 3



* C M R 8 0 0 - V - 1 *

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

1

HOUSE BILL 3

Short Title: Eminent Domain. (Public)

Sponsors: Representative McGrady (Primary Sponsor).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Judiciary II.

January 28, 2015

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROHIBIT
CONDEMNATION OF PRIVATE PROPERTY EXCEPT FOR A PUBLIC USE, TO
PROVIDE FOR THE PAYMENT OF JUST COMPENSATION WITH RIGHT OF TRIAL
BY JURY IN ALL CONDEMNATION CASES, AND TO MAKE SIMILAR
STATUTORY CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. Article I of the North Carolina Constitution is amended by adding a
new section to read:

"Sec. 19.1. Eminent domain.

Private property shall not be taken by eminent domain except for a public use. Just
compensation shall be paid and shall be determined by a jury at the request of any party."

SECTION 2. The amendment set out in Section 1 of this act shall be submitted to
the qualified voters of the State at a statewide election to be conducted on May 3, 2016, which
election shall be conducted under the laws then governing elections in the State. Ballots, voting
systems, or both may be used in accordance with Chapter 163 of the General Statutes. The
question to be used in the voting systems and ballots shall be:

"[] FOR [] AGAINST

Constitutional amendment to prohibit condemnation of private property except for a
public use and to provide for the payment of just compensation with right of trial by jury in all
condemnation cases."

SECTION 3. If a majority of votes cast on the question are in favor of the
amendment set out in Section 1 of this act, the State Board of Elections shall certify the
amendment to the Secretary of State. The Secretary of State shall enroll the amendment so
certified among the permanent records of that office. The amendment set out in Section 1 of
this act becomes effective upon certification and applies to takings after that date.

SECTION 4.(a) G.S. 40A-3(a) reads as rewritten:

"(a) Private Condemnors. – For the public ~~use or benefit~~, use, the persons or
organizations listed below shall have the power of eminent domain and may acquire by
purchase or condemnation property for the stated purposes and other works which are
authorized by ~~law~~ law:

- (1) Corporations, bodies politic or persons have the power of eminent domain
for the construction of railroads, power generating facilities, substations,
switching stations, microwave towers, roads, alleys, access railroads,
turnpikes, street railroads, plank roads, tramroads, canals, ~~telegraphs~~,



1 ~~telephones, communication facilities,~~ electric power lines, electric lights,
2 public water supplies, public sewerage systems, flumes, bridges, facilities
3 related to the distribution of natural gas, and pipelines or mains originating
4 in North Carolina for the transportation of petroleum products, coal, natural
5 gas, limestone or minerals. Land condemned for any liquid pipelines shall:

6 a. Not be less than 50 feet nor more than 100 feet in width; and

7 b. Comply with the provisions of G.S. 62-190(b).

8 The width of land condemned for any natural gas pipelines shall not be more
9 than 100 feet.

10"

11 **SECTION 4.(b)** G.S. 40A-3(b) reads as rewritten:

12 "(b) Local Public Condemnors – Standard Provision. – For the public ~~use or benefit, use,~~
13 the governing body of each municipality or county shall possess the power of eminent domain
14 and may acquire by purchase, gift or condemnation any property, either inside or outside its
15 boundaries, for the following ~~purposes, purposes:~~

16"

17 **SECTION 4.(c)** G.S. 40A-3(b1) reads as rewritten:

18 "(b1) Local Public Condemnors – Modified Provision for Certain Localities. – For the
19 public ~~use or benefit, use,~~ the governing body of each municipality or county shall possess the
20 power of eminent domain and may acquire by purchase, gift or condemnation any property or
21 interest therein, either inside or outside its boundaries, for the following ~~purposes, purposes:~~

22"

23 **SECTION 4.(d)** G.S. 40A-3(c) reads as rewritten:

24 "(c) Other Public Condemnors. – For the public ~~use or benefit, use,~~ the following
25 political entities shall possess the power of eminent domain and may acquire property by
26 purchase, gift, or condemnation for the stated ~~purposes, purposes:~~

27"

28 **SECTION 5.** G.S. 40A-3 is amended by adding a new subsection to read:

29 "(d) Connection of Customers. – For the public use, private condemnors, local public
30 condemnors, and other public condemnors in subsections (a), (b), (b1), and (c) of this section
31 shall possess the power of eminent domain and may acquire by purchase, gift, or condemnation
32 any property for the connection of any customer or customers."

33 **SECTION 6.** Sections 4 and 5 of this act become effective when this act becomes
34 law and apply to takings occurring on or after that date. The remainder of this act is effective
35 when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

D

HOUSE BILL 3
PROPOSED SENATE COMMITTEE SUBSTITUTE H3-CSTG-58 [v.19]

06/23/2016 07:51:30 PM

Short Title: Omnibus Constitutional Amendments.

(Public)

Sponsors:

Referred to:

January 28, 2015

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROHIBIT
CONDEMNATION OF PRIVATE PROPERTY EXCEPT FOR A PUBLIC USE; TO
PROVIDE FOR THE PAYMENT OF JUST COMPENSATION WITH RIGHT OF TRIAL
BY JURY IN ALL CONDEMNATION CASES; TO PROVIDE FOR TAXPAYER
PROTECTIONS THAT ESTABLISH A STATE EMERGENCY SAVINGS RESERVE
FUND; TO REDUCE THE MAXIMUM INCOME TAX RATE TO FIVE AND ONE-HALF
PERCENT FROM TEN PERCENT; AND TO PROTECT THE RIGHT OF THE PEOPLE
TO HUNT, FISH AND HARVEST WILDLIFE.

The General Assembly of North Carolina enacts:

PART I. EMINENT DOMAIN

SECTION 1.1. Article I of the North Carolina Constitution is amended by adding a
new section to read:

"Sec. 38. Eminent domain.

Private property shall not be taken by eminent domain except for a public use. Just
compensation shall be paid and shall be determined by a jury at the request of any party."

SECTION 1.2.(a) The amendment set out in Section 1.1 of this act shall be submitted
to the qualified voters of the State at a statewide election to be conducted on November 8, 2016,
which election shall be conducted under the laws then governing elections in the State. The
question to be used in the voting systems and ballots shall be:

"[] FOR [] AGAINST

Constitutional amendment to prohibit condemnation of private property except for a
public use and to provide for the payment of just compensation with right of trial by jury in all
condemnation cases."

SECTION 1.2.(b) If a majority of votes cast on the question are in favor of the
amendment set out in Section 1.1 of this act, the State Board of Elections shall certify the
amendment to the Secretary of State. The Secretary of State shall enroll the amendment so
certified among the permanent records of that office. The amendment set out in Section 1.1 of this
act becomes effective January 1, 2017.

PART II. TAXPAYER PROTECTIONS

SECTION 2.1.(a) The Constitution of North Carolina is amended by adding the
following Article:

"ARTICLE XV
"TAXPAYER PROTECTIONS



* H 3 - C S T G - 5 8 *



"Sec.1. Establishment of Emergency Savings Reserve Fund.

(1) The Emergency Savings Reserve Fund is established in the State Treasury. Interest on money in the Emergency Savings Reserve Fund shall remain in the Fund.

(2) Except as provided in subsection (3) of this section, the General Assembly shall reserve to the Emergency Savings Reserve Fund each fiscal year an amount equal to two percent of the amount appropriated from the General Fund, excluding General Fund receipts, for capital and operating expenses for the prior fiscal year until the Fund contains an amount equal to twelve and one-half percent of the amount appropriated from the General Fund, excluding General Fund receipts, for capital and operating expenses for the prior fiscal year. The General Assembly may by statute provide for the deposit of additional funds in the Emergency Savings Reserve Fund.

(3) The General Assembly may decline to reserve funds to the Emergency Savings Reserve Fund, provide for the expenditure of funds from the Emergency Savings Reserve Fund, or both. An act declining to reserve funds to the Emergency Savings Reserve Fund, providing for the expenditure of funds in the Emergency Savings Reserve Fund, or both, shall become law only if two-thirds of all the members of each house vote to pass the bill.

(4) No money shall be drawn from the Emergency Savings Reserve Fund but in consequence of appropriations from the Fund made by an act passed by two-thirds of all the members of each house. The constitutional powers of the Governor do not authorize (i) the expenditure of money in the Emergency Savings Reserve Fund without an appropriation by the General Assembly or (ii) the diversion for other purposes of money appropriated from the Emergency Savings Reserve Fund by the General Assembly.

(5) This section shall not be construed to prevent the General Assembly from authorizing by statute the use of money in the Emergency Savings Reserve Fund on a temporary basis to meet the cash flow needs of the State.

"Sec.2. Income tax rate limited to five and one-half percent.

The rate of tax on incomes shall not in any case exceed five and one-half percent, and there shall be allowed personal exemptions and deductions so that only net incomes are taxed."

SECTION 2.1.(b) Section 2 of Article V of the Constitution of North Carolina reads as rewritten:

"Sec. 2. State and local taxation.

...
(6) Income tax. The rate of tax on incomes shall not in any case exceed ten percent, and there shall be allowed personal exemptions and deductions so that only net incomes are taxed. Tax on incomes shall be subject to the provisions of Section 2 of Article XV of this Constitution."

SECTION 2.1.(c) Section 22 of Article II of the Constitution of North Carolina is amended by adding a new subsection to read:

"(3a) Emergency Savings Reserve Fund Bills. Every bill declining to reserve funds to the Emergency Savings Reserve Fund, providing for the expenditure of funds from the Emergency Savings Reserve Fund, or both, and containing no other matter shall be read three times in each house before it becomes law and shall be signed by the presiding officers of both houses."

SECTION 2.2. The amendments set out in Section 2.1 of this act shall be submitted to the qualified voters of the State at a statewide general election to be held November 8, 2016, which election shall be conducted under the laws then governing elections in the State. The question to be used in the voting systems and ballots shall be:

"[] FOR [] AGAINST

Constitutional amendments to provide for taxpayer protections that would establish and require yearly deposits in an Emergency Savings Reserve Fund in the State Treasury, and reduce the maximum allowable income tax rate in North Carolina from ten percent (10%) to five and one-half percent (5.5%)."

SECTION 2.3. If a majority of votes cast on the question are in favor of the amendments set out in Section 2.1 of this act, the State Board of Elections shall certify the



1 amendments to the Secretary of State. The constitutional amendments set out in Section 2.1 of this
2 act become effective upon such certification and apply as follows:

3 (1) Section 1 of Article XV applies to fiscal years beginning on or after July 1,
4 2017.

5 (2) Section 2 of Article XV applies to taxable years beginning on or after January
6 1, 2020. The amendment to Section 2 of Article V applies to taxable years
7 beginning on or after January 1, 2020.

8 (3) Section 22(3a) of Article II applies upon certification by the Secretary of State.

9 The Secretary of State shall enroll the amendments so certified among the permanent
10 records of that office.

11 12 **PART III. RIGHT TO HUNT, FISH, AND HARVEST WILDLIFE**

13 **SECTION 3.1.** Article I of the North Carolina Constitution is amended by adding a
14 new section to read:

15 **"Sec. 40. Right to Hunt, Fish, and Harvest Wildlife.**

16 The traditions of hunting and fishing are valuable parts of the State's heritage, important for
17 conservation, and a preferred means of managing wildlife. The people have a right to hunt, fish,
18 and harvest wildlife, using traditional methods, subject to such reasonable regulations as the
19 General Assembly may prescribe to promote wildlife conservation and management, and to
20 preserve the future of hunting and fishing. This section shall not be construed to modify any
21 provision of law relating to public safety, trespass, property rights, eminent domain, or the
22 regulation of commercial activities."

23 **SECTION 3.2.(a)** The amendment set out in Section 3.1 of this act shall be submitted
24 to the qualified voters of the State at a statewide election to be conducted on November 8, 2016,
25 which election shall be conducted under the laws then governing elections in the State. The
26 question to be used in the voting systems and ballots shall be:

27 "[] FOR [] AGAINST

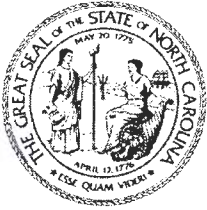
28 Constitutional amendment to protect the right of the people to hunt, fish, and harvest
29 wildlife."

30 **SECTION 3.2.(b)** If a majority of votes cast on the question are in favor of the
31 amendment set out in Section 3.1 of this act, the State Board of Elections shall certify the
32 amendment to the Secretary of State. The Secretary of State shall enroll the amendment so
33 certified among the permanent records of that office. The amendment set out in Section 3.1 of this
34 act becomes effective January 1, 2017.

35 36 **PART IV. EFFECTIVE DATE.**

37 **SECTION 4.** Except as otherwise provided, this act is effective when it becomes law.





HOUSE BILL 3: Omnibus Constitutional Amendments.

2016-2017 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	June 24, 2016
Introduced by:	Reps. McGrady, Stam, Lewis, Goodman	Prepared by:	Erika Churchill and
Analysis of:	PCS to First Edition		Amy Darden,
	H3-CSTG-58		Staff Attorneys

SUMMARY: *The PCS to House Bill 3 proposes the following amendments to the North Carolina Constitution:*

- *Eminent domain*
- *Taxpayer protections*
- *The right to hunt, fish and harvest wildlife.*

[As introduced, this bill was identical to S74, as introduced by Sen. B. Jackson, which is currently in Senate Rules and Operations of the Senate.]

BILL ANALYSIS:

- Part 1 of the PCS would amend the NC Constitution by adding a new Section 19.1 to Article I. The new section would provide that private property cannot be taken for eminent domain except for a public use and that just compensation shall be paid and determined by a jury at the request of any party. Previously, the NC Supreme court had not recognized a right to a jury trial for the issue of compensation in Kaperonis v. NC State Highway Commission.
 - This amendment would be submitted to voters at a statewide election on November 8, 2016, and if passed would become law January 1, 2017.
- Part 2 of the PCS would add a new Article to the NC Constitution entitled "Taxpayer Protections." This Article would:
 - Create a new constitutionally required Emergency Savings Reserve Fund. The General Assembly would be required to reserve 2% of the amount of appropriated each year to the Fund. Bills declining to make the required reserve and bills appropriating money from the Emergency Savings Reserve Fund, would require a $\frac{2}{3}$ vote of both houses. This section would apply to fiscal years beginning on or after January 1, 2017, if passed by the voters.
 - Caps the tax on income at 5 $\frac{1}{2}$ % (currently capped at 10%). This section would apply to taxable years beginning on or after January 1, 2017, if passed by the voters.
 - These amendments would be submitted to voters at a statewide election on November 8, 2016.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 3

Page 2

- Part 3 of the PCS would amend Article I of the NC Constitution to add a new Section 20 entitled "Right to Hunt, Fish, and Harvest Wildlife." This section would:
 - Provide a right to hunt, fish and harvest wildlife, using traditional methods subject to reasonable regulations by the General Assembly.
 - This amendment would be submitted to voters at a statewide election on November 8, 2016 and if passed would become law January 1, 2017.

EFFECTIVE DATE: Except as otherwise provided, this act becomes effective when it becomes law.



Senate Committee on Rules and Operations of the Senate

June 24, 2016 – Room 1027/1128 – 12:30 PM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Chris Apple	ICDD
Caroline Deery	Governors Office
Tracy Kimbrell	Parker Poe
Kathy Hawley	Duke
Tyler Venter	AFR
Joe Kyzar	AFP
Jon Mat	NELCH
Math Gross	NCR
Sarah Jacobson	AHA
Morgan Gramann	NCAH
Rose Williams	NLM
SAH Hekstra	NCAce
Johanna Reese	NCAce
Lisa Martin	Cap-Adv
Meghan Cook	NC DIT
CAJ Thomas	FDUO Corlinoz
Paul Sherman	NCFB
Martha Jenkins	INCR

Mia Bailey - Electri Cities

Johnny Tillet - Nuc

Suzanne Bradley - STANE

Madeleine Butler - SEPMNC

Mike Cuyette - NATAA

Catherine Howard - NCFB

Jake Parker - NCFB

Tommy Stevens - Stennis Lobby

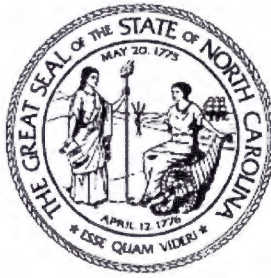
Jeff Davidson - SSFMC

Betsy McCortice - SS6NC

Laura O'Neil - LOLLCC

Laura Puryear LOLLCC

Joanna Garrett - NSS



Senate Committee on Rules and Operations of the Senate

June 24, 2016 – Room 1027/1128 – 12:30 PM

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June 24, 2016 – Room 1027/1128 – 12:30 PM

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Jordan Rice Law Firm
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June 24, 2016 – Room 1027/1128 – 12:30 PM

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AC Ferguson	CS
Joyce Waters	CS
Amanda Donovan	TSS
Chris McGhee	BP
Amanda Smith	JDA
Arthur Bullock	NCC
Erin Wynia	NCLM
Tammy Seun	NVA
Drew Mucitz	UNC GA
Sgt. Ann Cooper	CCS
Will Morgan	TNC
Adam Polun	NABA
Kara Weishaar	SA
Chris Moughton	MWC
Wendy Kelly	Focus Carolina
Carol L. Vol.	V. G. A.



MINUTES

Rules and Operations of the Senate

June 28, 2016

The Rules and Operations of the Senate committee met on June 28, 2016 at 11:05 a.m. The meeting was held in room 1027/1028 of the Legislative Building. Fifteen members of the committee were present. Senator Tom Apodaca presided.

Senator Apodaca introduced the Pages and the Sergeant at Arms.

Senator Apodaca brought forth the items on the agenda:

SB 890: Elections Every Four Years/Town of Marietta. – Senator Smith explained the bill. Senator Ford moved for a favorable report. Motion carried.

HB804: Kelsey Smith Act- Senator Brock moved to bring the PCS before the committee. Motion carried. Representative Hurley explained the PCS. Senator Apodaca opened up the floor for questions or comments from the committee. Senator Newton moved for a favorable report to the PCS, unfavorable to the original bill. Motion carried.

HB1044: Law Enforcement Omnibus Bill- Senator Brock moved to bring the PCS before the committee. Motion carried. Representatives Hager and Hurley explained the PCS. Senator Brock moved for a favorable report to the PCS, unfavorable to the original bill. Motion carried.

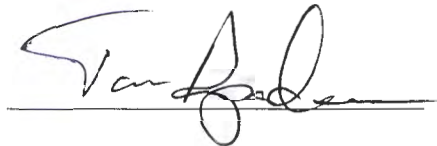
HB630: Alternative WQ Protection for Falls Lake- Senator Brock moved to bring the PCS before the committee. Secretary Van Der Vart of NC Department of Environmental Quality, explained the new PCS. Senator Apodaca further explained the PCS and took questions from the committee. Senator Ford moved for a favorable report to the PCS, unfavorable to the original bill. Motion carried.

HB548: Zoning/Modernize & Reorganize- Senator Brock moved to bring the PCS before the committee. Motion carried. Senator Rabon sent forth an amendment and explained.

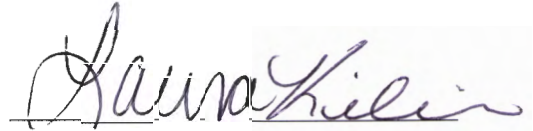


Amendment passed. Senator Rucho and Erika Churchill with central staff further explained the PCS. Senator Apodaca opened up the floor for questions. Senator Brock moved for a favorable report to the PCS as amended, unfavorable to the first PCS. Motion carried.

The meeting adjourned at 3:10 p.m.

A handwritten signature in dark ink, appearing to read "Tom Apodaca", written over a horizontal line.

Senator Tom Apodaca, Presiding

A handwritten signature in dark ink, appearing to read "Laura Kilian", written over a horizontal line.

Laura Kilian, Committee Assistant



Principal Clerk _____
Reading Clerk _____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Rules and Operations of the Senate** will meet at the following time:

DAY	DATE	TIME	ROOM
Tuesday	June 28, 2016	11:00 AM	1027/1128 LB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 804	Kelsey Smith Act.	Representative Hurley Representative Glazier Representative Schaffer Representative Lambeth Senator Smith
SB 890	Elections Every Four Years/Town of Marietta.	
HB 548	Zoning/Modernize & Reorganize.	Representative Bishop Representative Stam Representative Bryan Representative Hamilton
HB 1044	Law Enforcement Omnibus Bill.	Representative Hager Representative J. Bell Representative Boles Representative Burr
HB 630	Alternative WQ Protection for Falls Lake.	Representative Yarborough

Senator Tom Apodaca, Chair



Senate Committee on Rules and Operations of the Senate
Tuesday, June 28, 2016, 11:00 AM
1027/1128 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 804	Kelsey Smith Act.	Representative Hurley Representative Glazier Representative Schaffer Representative Lambeth Senator Smith
SB 890	Elections Every Four Years/Town of Marietta.	
HB 548	Zoning/Modernize & Reorganize.	Representative Bishop Representative Stam Representative Bryan Representative Hamilton
HB 1044	Law Enforcement Omnibus Bill.	Representative Hager Representative J. Bell Representative Boles Representative Burr
HB 630	Alternative WQ Protection for Falls Lake.	Representative Yarborough

Presentations

Other Business

Adjournment



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT
Senator Apodaca, Co-Chair**

Tuesday, June 28, 2016

Senator Apodaca,
submits the following with recommendations as to passage:

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO
SENATE COMMITTEE SUBSTITUTE BILL**

HB 548 (CS#1)

Zoning/Modernize & Reorganize.

Draft Number: H548-PCS40691-ST-127

Sequential Referral: None

Recommended Referral: None

Long Title Amended: Yes

TOTAL REPORTED: 1

Senator Bob Rucho will handle HB 548



* C M R 8 2 4 - V - 2 *



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT
Senator Apodaca, Co-Chair**

Tuesday, June 28, 2016

Senator Apodaca,
submits the following with recommendations as to passage:

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE
SUBSTITUTE BILL**

HB 630

Alternative WQ Protection for Falls Lake.

Draft Number:	H630-PCS10571-RI-32
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Tom Apodaca will handle HB 630



* C M R 8 1 8 - V - 1 *



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT
Senator Apodaca, Co-Chair**

Tuesday, June 28, 2016

Senator Apodaca,
submits the following with recommendations as to passage:

**UNFAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 1, BUT
FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 2**

HB 1044 (SCS#1)

Law Enforcement Omnibus Bill.

Draft Number:	H1044-PCS10572-TG-71
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Shirley B. Randleman will handle HB 1044



★ C M R 8 1 4 - V - 1 ★

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT
Senator Apodaca, Co-Chair**

Tuesday, June 28, 2016

Senator Apodaca,
submits the following with recommendations as to passage:

FAVORABLE

SB 890 Elections Every Four Years/Town of Marietta.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

**UNFAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 1, BUT
FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 2**

HB 804 (SCS#1) Kelsey Smith Act.
Draft Number: H804-PCS10570-SA-120
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

TOTAL REPORTED: 2

Senator Jane W. Smith will handle SB 890
Senator E. S. (Buck) Newton will handle HB 804



* C M R 8 1 3 - V - 1 *



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 804
Senate Judiciary I Committee Substitute Adopted 7/23/15

Short Title: Kelsey Smith Act.

(Public)

Sponsors:

Referred to:

April 15, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR WARRANTLESS ACCESS BY LAW ENFORCEMENT TO
3 TELECOMMUNICATIONS DEVICE LOCATION INFORMATION UNDER CERTAIN
4 CIRCUMSTANCES.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. This act shall be known as the Kelsey Smith Act.

7 SECTION 2. Chapter 15A of the General Statutes is amended by adding a new
8 Article to read:

9 "Article 16C.

10 "Provision of Wireless Call Location Information to Law Enforcement.

11 "**§ 15A-300.10. Provision of call location information by wireless service provider to law**
12 **enforcement.**

13 (a) The following definitions apply in this section:

14 (1) Call location data. – Global positioning system, triangulation, and per-call
15 measurement data indicating the location of a telecommunications device.
16 Call location data does not include the contents of any communication made
17 using a telecommunications device.

18 (2) Imminent. – With respect to a risk of death or serious physical harm, means
19 that the length of time necessary to comply with otherwise applicable
20 provisions of law pertaining to obtaining authorization for electronic
21 surveillance would, in the professional judgment of the law enforcement
22 agency based upon generally accepted surveillance and investigation
23 protocols, significantly reduce the chance of preventing death or serious
24 physical harm.

25 (3) Public safety answering point. – Defined in G.S. 62A-40.

26 (4) Wireless service provider. – A commercial mobile radio service provider, as
27 defined in G.S. 62A-40, including providers of subscription-based,
28 in-vehicle security service.

29 (b) Upon request of a law enforcement agency or a public safety answering point on
30 behalf of a law enforcement agency, a wireless service provider shall provide call location
31 information concerning the telecommunications device of a user to the requesting law
32 enforcement agency or public safety answering point. A law enforcement agency or public
33 safety answering point may request information under this section only in an emergency
34 situation that involves an imminent risk of death or serious physical harm.

35 (c) A wireless service provider may establish procedures for disclosure of call location
36 information.



(d) No cause of action shall lie in any court against a wireless service provider, its officers, directors, employees, agents, or other specified persons for providing mobile communications tracking information to a law enforcement agency or public safety answering point as required by this act.

(e) The State Bureau of Investigation shall maintain a database containing emergency contact information for all wireless telecommunications carriers registered to do business in the State and shall make the information readily available upon request to all public safety answering points located in the State."

SECTION 3.(a) Article 12 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ 15A-265. Warrantless use of pen register or trap and trace device.

(a) Notwithstanding any other provision of this Chapter, a law enforcement officer may have installed and use a pen register or trap and trace device if the law enforcement officer makes the following determinations:

(1) An emergency situation exists that involves immediate danger of death or serious bodily injury to any person that requires the installation and use of a pen register or a trap and trace device before an order authorizing such installation and use can, with due diligence, be obtained; and

(2) There are grounds upon which an order could be entered under this Chapter to authorize such installation and use.

(b) The law enforcement officer must seek an order approving the installation or use in accordance with G.S. 15A-263 within 48 hours after the installation has occurred, or begins to occur, under subsection (a) of this section.

(c) In the absence of an authorizing order under G.S. 15A-263, the use of a pen register or trap and trace device shall immediately terminate when the information sought is obtained, when the application for the order is denied, or when 48 hours have lapsed since the installation of the pen register or trap and trace device, whichever first occurs.

(d) The knowing installation or use by any law enforcement officer of a pen register or trap and trace device pursuant to subsection (a) of this section without application for the authorizing order within 48 hours of the installation shall constitute a violation of this Chapter.

(e) A provider of a wire or electronic service, landlord, custodian, or other person who furnished facilities or technical assistance pursuant to this section shall be reasonably compensated for such reasonable expenses incurred in providing such facilities and assistance."

SECTION 3.(b) G.S. 15A-261(b) reads as rewritten:

"(b) Exception. – The prohibition of subsection (a) of this section does not apply to the use of a pen register or a trap and trace device by a provider of wire or electronic communication service:

(1) Relating to the operation, maintenance, or testing of a wire or electronic communication service or to the protection of the rights or property of the provider, or to the protection of users of that service from abuse of service or unlawful use of service; ~~or service.~~

(2) To record the fact that a wire or electronic communication was initiated or completed in order to protect the provider, another provider furnishing service toward the completion of the wire communication, or a user of that service, from fraudulent, unlawful or abusive use of service; ~~or service.~~

(3) With the consent of the user of that service.

(4) Under emergency circumstances as set forth in G.S. 15A-265."

SECTION 4. This act becomes effective December 1, 2015, and applies to offenses committed on or after that date.



HOUSE BILL 804: Kelsey Smith Act.

2016-2017 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	June 28, 2016
Introduced by:	Reps. Hurley, Glazier, Schaffer, Lambeth	Prepared by:	Susan Sitze
Analysis of:	PCS to Second Edition H804-CSSA-120		Staff Attorney

SUMMARY: *The Proposed Committee Substitute (PCS) for House Bill 804 would provide access by law enforcement to telecommunications device location information under certain circumstances.*

BILL ANALYSIS:

Section 1 of the PCS would name the act the "Kelsey Smith Act".

Section 2 of the PCS would allow a wireless service provider to provide call location information to a law enforcement agency upon issuance of a call location warrant. The warrant could be issued in an emergency situation that involves an imminent risk of death or serious physical harm.

If the warrant is applied for in person, it can be issued by a Justice of the Supreme Court, a Judge of the Court of Appeals, a judge of the superior court, or a magistrate. The warrant may be issued via telephone application by a judge of the superior court. The warrant is valid for 48 hours from issuance.

Call location data does not include the contents of any communication made, but does include global positioning system (GPS) information, triangulation and per-call measurement data.

Imminent risk of death or serious physical harm would mean that the length of time necessary to comply with otherwise applicable provisions of law pertaining to obtaining authorization for electronic surveillance would, in the professional judgment of the law enforcement agency based upon generally accepted surveillance and investigation protocols, significantly reduce the chance of preventing death or serious physical harm.

Section 3 of the PCS would authorize magistrates to issue call location warrants valid throughout the State.

EFFECTIVE DATE: This act becomes effective December 1, 2016.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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D

HOUSE BILL 804
Senate Judiciary I Committee Substitute Adopted 7/23/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H804-PCS10570-SA-120

Short Title: Kelsey Smith Act.

(Public)

Sponsors:

Referred to:

April 15, 2015

A BILL TO BE ENTITLED
AN ACT TO PROVIDE ACCESS BY LAW ENFORCEMENT TO TELECOMMUNICATIONS
DEVICE LOCATION INFORMATION UNDER CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known as the Kelsey Smith Act.

SECTION 2. Chapter 15A of the General Statutes is amended by adding a new
Article to read:

"Article 16C.

"Provision of Wireless Call Location Information to Law Enforcement.

**"§ 15A-300.10. Provision of call location information by wireless service provider to law
enforcement; call location warrant required.**

(a) Definitions. – The following definitions apply in this section:

(1) Call location data. – Global positioning system, triangulation, and per-call
measurement data indicating the location of a telecommunications device. Call
location data does not include the contents of any communication made using a
telecommunications device.

(2) Call location warrant. – A warrant issued pursuant to this section that authorizes
a law enforcement agency or public safety answering point to obtain call
location data from a wireless service provider.

(3) Imminent. – With respect to a risk of death or serious physical harm, means that
the length of time necessary to comply with otherwise applicable provisions of
law pertaining to obtaining authorization for electronic surveillance would, in
the professional judgment of the law enforcement agency based upon generally
accepted surveillance and investigation protocols, significantly reduce the
chance of preventing death or serious physical harm.

(4) Wireless service provider. – A commercial mobile radio service provider, as
defined in G.S. 143B-1400, including providers of subscription-based,
in-vehicle security service.

(b) Call Location Warrant; Application; Issuance. – A law enforcement agency that
believes the user of a telecommunications device to be in imminent risk of death or serious
physical harm or to be criminally involved in the imminent risk of death or serious physical harm
to another may apply for and be issued a call location warrant as follows:

(1) The warrant may be issued by any person authorized to issue a search warrant
pursuant to G.S. 15A-243(a) or G.S. 15A-243(b)(3).



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(2) The application shall be made in writing upon oath and affirmation and shall contain (i) the name and title of the applicant, (ii) identification of the telecommunications device and user for which the call location data is requested, (iii) the allegations of fact establishing probable cause to believe that the user of the telecommunications device is in imminent risk of death or serious physical harm or is criminally involved in the imminent risk of death or serious physical harm to another, and (iv) a request that the court issue a warrant authorizing the applicant to obtain call location data for that telecommunications device and user from a wireless service provider.

Upon a finding that the call location warrant is necessary to prevent imminent risk of death or serious physical harm, the issuing official may issue a warrant authorizing the applicant to obtain call location data for the telecommunications device and user indicated. The warrant shall be valid anywhere in this State for a period of 48 hours from issuance.

(c) Expedited Warrant. – Notwithstanding the requirements of subsection (b) of this section, a law enforcement agency may request the issuance of a call location warrant from a judge of the superior court via telephone by verbally providing the information required by subdivision (2) of subsection (b) of this section. If the judge finds that the call location warrant is necessary to prevent imminent risk of death or serious physical harm, the judge may verbally issue a call location warrant. For any warrant issued pursuant to this subsection, within 48 hours of issuance the applicant shall file with the clerk of court in the county in which the warrant was issued a written application that complies with the requirements of subdivision (2) of subsection (b) of this section. Any applicant who receives a verbal call location warrant shall execute an affidavit to that effect for presentation to the wireless service provider.

(d) Service of Warrant. – Upon receipt of proof of issuance of a warrant from a law enforcement agency, a wireless service provider shall provide to the law enforcement agency call location information concerning the telecommunications device of any user identified in the warrant for the period of time deemed by the law enforcement agency to be relevant to preventing the imminent death or serious physical harm. Provision of a copy of the warrant, or an affidavit executed by the law enforcement officer obtaining a verbal warrant pursuant to subsection (c), to the wireless service provider by electronic or facsimile transmission shall be sufficient proof of issuance of a warrant for purposes of this section.

(e) Filing of Warrant. – Any warrant issued pursuant to this section shall be filed with the clerk of court in the county in which it is issued. The warrant shall remain under seal for 30 days from the date it is filed, unless that period is extended by the superior court upon motion of the law enforcement agency.

(f) Waiver of Liability. – No cause of action shall lie in any court against a wireless service provider, its officers, directors, employees, agents, or other specified persons for providing mobile communications tracking information to a law enforcement agency as required by this section."

SECTION 3. G.S. 7A-273 reads as rewritten:

"§ 7A-273. Powers of magistrates in infractions or criminal actions.

In criminal actions or infractions, any magistrate has power:

...

(4a) To issue a call location warrant valid anywhere in the State pursuant to G.S. 15A-300.10.

...."

SECTION 4. This act becomes effective December 1, 2016.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S

1

SENATE BILL 890

Short Title: Elections Every Four Years/Town of Marietta. (Local)

Sponsors: Senator Smith (Primary Sponsor).

Referred to: Rules and Operations of the Senate

June 1, 2016

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWN OF MARIETTA TO HOLD MUNICIPAL ELECTIONS
EVERY FOUR YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2.3 of the Charter of the Town of Marietta, being Chapter 111 of the 1985 Session Laws, reads as rewritten:

"Sec. 2.3. Mayor; Term of Office; Duties. The Mayor shall be elected in the manner provided by Article III of this Charter to serve for a term of ~~two-four~~ years or until his successor is elected and qualified. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Council. He shall have the right to vote in any and all matters before the Council. The Mayor shall exercise such powers and perform such duties as presently are or hereinafter may be conferred upon him by the General Statutes of North Carolina, by this Charter, and by the ordinances of the Town."

SECTION 2. Article III of the Charter of the Town of Marietta, being Chapter 111 of the 1985 Session Laws, reads as rewritten:

"Article III.

"Elections.

"Sec. 3.1. Regular Municipal Elections; Conduct and Method of Election. ~~Regular-Beginning in 2017, regular~~ municipal elections shall be held in the Town every ~~two-four~~ years in odd-numbered years and shall be conducted by the Robeson County Board of Elections in accordance with the uniform municipal election laws of North Carolina. At each such election, the Mayor and ~~two-four~~ members of the Council shall be elected according to the nonpartisan plurality method of election.

"Sec. 3.2. Election of Council Members. Members of the Town Council are elected to four-year terms. ~~In 1985 all four members of the Town Council shall be elected, two for four years and two for two years, the two candidates receiving the highest number of votes to serve for four years and the two candidates who receive the next largest number of votes to serve for two years.~~ The two members whose terms expire in 2017 shall be elected to serve four-year terms at the regular municipal election in 2017. The two members whose terms expire in 2019 shall continue to serve until 2021. In 1987, 2021, and biennially-quadrennially thereafter, two-four members shall be elected by the voters of the Town voting at large.

"Sec. 3.3. Election of the Mayor. At the regular municipal election in ~~1985, 2017, and biennially-quadrennially~~ thereafter, there shall be elected a Mayor to serve a term of ~~two-four~~ years. The Mayor shall be elected by the voters of the Town voting at large.

...."

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



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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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4

HOUSE BILL 1044
Committee Substitute Favorable 6/15/16
Third Edition Engrossed 6/16/16
Senate Judiciary II Committee Substitute Adopted 6/23/16

Short Title: Law Enforcement Omnibus Bill.

(Public)

Sponsors:

Referred to:

May 5, 2016

A BILL TO BE ENTITLED

AN ACT TO CREATE A PUBLIC SERVICE ALERT SYSTEM TO AID IN THE APPREHENSION OF SUSPECTS WHO KILL OR INFLICT SERIOUS BODILY INJURY ON A LAW ENFORCEMENT OFFICER; TO PROVIDE THAT THE HEAD OR CHIEF OF A LAW ENFORCEMENT AGENCY MAY DESIGNATE A PERSON TO SUBMIT A WRITTEN REQUEST FOR A DEADLY WEAPON TO BE TURNED OVER TO A LAW ENFORCEMENT AGENCY; TO AMEND THE SILVER ALERT SYSTEM TO EXPAND THE CLASS OF CITIZENS IT PROTECTS; TO PREVENT MOTOR CARRIERS FROM AVOIDING CIVIL PENALTIES OWED TO THE STATE BY TRANSFERRING TITLE PRIOR TO PAYMENT; TO MAKE MINOR CHANGES TO THE DEFINITION OF EMERGENCY IN THE NORTH CAROLINA EMERGENCY MANAGEMENT ACT; TO PROVIDE THAT THE SAMARCAND TRAINING ACADEMY IS SPECIFICALLY EXEMPTED FROM THE UMSTEAD ACT; TO PROVIDE AN EXEMPTION TO THE DEPARTMENT OF PUBLIC SAFETY AND THE STATE BUREAU OF INVESTIGATION; TO CREATE AN EXCEPTION TO THE LENGTH OF SERVICE REQUIREMENTS FOR FORENSIC SCIENTISTS TO BECOME CAREER STATE EMPLOYEES; AND TO EXPAND THE LIST OF CRIMES FOR WHICH AN INVESTIGATIVE GRAND JURY MAY BE CONVENED.

The General Assembly of North Carolina enacts:

SECTION 1. Subpart B of Part 5 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-1023. North Carolina Blue Alert System established.

(a) There is established within the North Carolina Center for Missing Persons the Blue Alert System. The purpose of the Blue Alert System is to aid in the apprehension of a suspect who kills or inflicts serious bodily injury on a law enforcement officer by providing a statewide system for the rapid dissemination of information regarding the suspect. The term "serious bodily injury" is as defined in G.S. 14-32.4(a).

(b) The Center shall make every effort to rapidly disseminate information on a suspect when the following criteria are met:

(1) A law enforcement officer is killed or suffers serious bodily injury.

(2) A law enforcement agency with jurisdiction (i) determines that the suspect poses a threat to the public and other law enforcement personnel and (ii) possesses information that may assist in locating the suspect, including information regarding the suspect's vehicle, complete or partial license plate



information, and a detailed description of the suspect, or that a law enforcement officer is missing while on duty under circumstances warranting concern for the law enforcement officer's safety.

(3) The head of a law enforcement agency with jurisdiction recommends the issuance of a blue alert to the Center.

(c) The Center shall adopt guidelines and develop procedures for the statewide implementation of the Blue Alert System and shall provide education and training to encourage radio and television broadcasters to participate in the alert.

(d) The Center shall consult with the Department of Transportation and develop a procedure for the use of overhead permanent changeable message signs to provide information on a suspect when the criteria established in subsection (b) of this section are met. The Center and the Department of Transportation shall develop guidelines for the content, length, and frequency of any message to be placed on the overhead permanent changeable message sign pursuant to the issuance of a blue alert.

(e) The Center shall consult with the Division of Emergency Management in the Department of Public Safety to develop a procedure for the use of the Blue Alert System to provide information on a suspect when the criteria established in subsection (b) of this section are met."

SECTION 2. G.S. 14-269.1(4b) reads as rewritten:

"(4b) By ordering the weapon turned over to a law enforcement agency in the county of trial for (i) the official use of the agency or (ii) sale, trade, or exchange by the agency to a federally licensed firearm dealer in accordance with all applicable State and federal firearm laws. The court may order a disposition of the firearm pursuant to this subdivision only upon the written request of the head or chief of the law enforcement agency or a designee of the head or chief of the law enforcement agency and only if the firearm has a legible, unique identification number. If the law enforcement agency sells the firearm, then the proceeds of the sale shall be remitted to the appropriate county finance officer as provided by G.S. 115C-452 to be used to maintain free public schools. The receiving law enforcement agency shall maintain a record and inventory of all firearms received pursuant to this subdivision."

SECTION 3. G.S. 143B-1022 reads as rewritten:

"§ 143B-1022. North Carolina Silver Alert System established.

(a) There is established within the North Carolina Center for Missing Persons the Silver Alert System. The purpose of the Silver Alert System is to provide a statewide system for the rapid dissemination of information regarding a missing person or missing child who is believed to be suffering from ~~dementia or other cognitive impairment~~, dementia, Alzheimer's disease, or a disability that requires them to be protected from potential abuse or other physical harm, neglect, or exploitation.

(b) If the Center receives a ~~report request~~ that involves a missing person or missing child ~~who is believed to be suffering from dementia or other cognitive impairment, for the protection of the missing person or missing child from potential abuse or other physical harm, neglect, or exploitation, as described in subsection (a) of this section,~~ the Center shall issue an alert providing for rapid dissemination of information statewide regarding the missing person or missing child. The Center shall make every effort to disseminate the information as quickly as possible when the person's or child's status as missing has been reported to a law enforcement agency.

(c) The Center shall adopt guidelines and develop procedures for issuing an alert for missing persons and missing children ~~believed to be suffering from dementia or other cognitive impairment as described in subsection (a) of this section~~ and shall provide education and training to encourage radio and television broadcasters to participate in the alert. The guidelines and

procedures shall ensure that specific health information about the missing person or missing child is not made public through the alert or otherwise.

...."

SECTION 4. G.S. 20-54 reads as rewritten:

"§ 20-54. Authority for refusing registration or certificate of title.

The Division shall refuse registration or issuance of a certificate of title or any transfer of registration upon any of the following grounds:

(13) The Division has been notified by the State Highway Patrol that the owner of the vehicle has failed to pay any civil penalty and fees imposed by the State Highway Patrol for a violation of Part 9 of Article 3 of this Chapter."

SECTION 5. G.S. 166A-19.3(6) reads as rewritten:

"(6) Emergency. – An occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made accidental, military, paramilitary, terrorism, weather-related, public health, explosion-related, or riot-related cause, cause, or technological failure or accident, including, but not limited to, a cyber incident, an explosion, a transportation accident, a radiological accident, or a chemical or other hazardous material incident."

SECTION 6. G.S. 66-58(b) is amended by adding a new subdivision to read:

"(28) Samarcand Training Academy."

SECTION 7. G.S. 126-1.1 reads as rewritten:

"§ 126-1.1. Career State employee defined.

(a) For the purposes of this Chapter, unless the context clearly indicates otherwise, "career State employee" means a State employee or an employee of a local entity who is covered by this Chapter pursuant to G.S. 126-5(a)(2) who:

- (1) Is in a permanent position with a permanent appointment, and
- (2) Has been continuously employed by the State of North Carolina or a local entity as provided in G.S. 126-5(a)(2) in a position subject to the North Carolina Human Resources Act for the immediate 12 preceding months.

(b) As used in this Chapter, "probationary State employee" means a State employee who is in a probationary appointment and is exempt from the provisions of the North Carolina Human Resources Act only because the employee has not been continuously employed by the State for the time period required by subsection (a) or (c) of this section.

(c) Notwithstanding the provisions of subsection (a) above, employees who are hired by a State agency, department or university in a sworn law enforcement position or forensic scientist position and who are required to complete a formal training program prior to assuming law enforcement or forensic scientist duties with the hiring agency, department or university shall become career State employees only after being employed by the agency, department or university for 24 continuous months."

SECTION 8. G.S. 15A-622 reads as rewritten:

"§ 15A-622. Formation and organization of grand juries; other preliminary matters.

...

(h) A written petition for convening of grand jury under this section may be filed by the district attorney, the district attorney's designated assistant, or a special prosecutor requested pursuant to G.S. 114-11.6, with the approval of a committee of at least three members of the North Carolina Conference of District Attorneys, and with the concurrence of the Attorney General, with the Clerk of the North Carolina Supreme Court. The Chief Justice shall appoint a panel of three judges to determine whether to order the grand jury convened. A grand jury under this section may be convened if the three-judge panel determines that:

(1) The petition alleges the commission of or a conspiracy to commit a ~~violation of G.S. 90-95(h) or G.S. 90-95.1~~, any of the crimes listed in subsection (i) of this section, any part of which violation or conspiracy occurred in the county where the grand jury sits, and that persons named in the petition have knowledge related to the identity of the perpetrators of those crimes but will not divulge that knowledge voluntarily or that such persons request that they be allowed to testify before the grand jury; and

(2) The affidavit sets forth facts that establish probable cause to believe that the crimes specified in the petition have been committed and reasonable grounds to suspect that the persons named in the petition have knowledge related to the identity of the perpetrators of those crimes.

The affidavit shall be based upon personal knowledge or, if the source of the information and basis for the belief are stated, upon information and belief. The panel's order convening the grand jury as an investigative grand jury shall direct the grand jury to investigate the crimes and persons named in the petition, and shall be filed with the Clerk of the North Carolina Supreme Court. A grand jury so convened retains all powers, duties, and responsibilities of a grand jury under this Article. The contents of the petition and the affidavit shall not be disclosed. Upon receiving a petition under this subsection, the Chief Justice shall appoint a panel to determine whether the grand jury should be convened as an investigative grand jury.

A grand jury authorized by this subsection may be convened from an existing grand jury or grand juries authorized by subsection (b) of this section or may be convened as an additional grand jury to an existing grand jury or grand juries. Notwithstanding subsection (b) of this section, grand jurors impaneled pursuant to this subsection shall serve for a period of 12 months, and, if an additional grand jury is convened, 18 persons shall be selected to constitute that grand jury. At any time for cause shown, the presiding superior court judge may excuse a juror temporarily or permanently, and in the latter event the court may impanel another person in place of the juror excused.

(i) An investigative grand jury may be convened pursuant to subsection (h) of this section if the petition alleges the commission of, attempt to commit or solicitation to commit, or a conspiracy to commit a ~~violation of G.S. 14-43.11 (human trafficking), G.S. 14-43.12 (involuntary servitude), or G.S. 14-43.13 (sexual servitude)~~, any of the following:

(1) A violation of G.S. 90-95(h) or G.S. 90-95.1.

(2) A violation of Article 29 or 30 of Chapter 14 of the General Statutes (relating to bribery and obstructing justice), G.S. 14-228 (buying and selling of offices), or G.S. 14-234 (public officers or employees benefiting from public contracts).

(3) A violation of G.S. 14-43.11 (human trafficking), G.S. 14-43.12 (involuntary servitude), or G.S. 14-43.13 (sexual servitude).

(j) Any grand juror who serves the full term of service under subsection (b) or subsection (h) of this section shall not be required to serve again as a grand juror or as a juror for a period of six years."

SECTION 9. Section 4 of this act becomes effective October 1, 2016, and applies to violations committed on or after that date. Section 8 of this act becomes effective October 1, 2016. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 1044
Committee Substitute Favorable 6/15/16
Third Edition Engrossed 6/16/16
Senate Judiciary II Committee Substitute Adopted 6/23/16
PROPOSED SENATE COMMITTEE SUBSTITUTE H1044-CSTG-71 [v.1]
06/27/2016 02:59:53 PM

Short Title: Law Enforcement Omnibus Bill.

(Public)

Sponsors:

Referred to:

May 5, 2016

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE A PUBLIC SERVICE ALERT SYSTEM TO AID IN THE
3 APPREHENSION OF SUSPECTS WHO KILL OR INFLICT SERIOUS BODILY INJURY
4 ON A LAW ENFORCEMENT OFFICER; TO PROVIDE THAT THE HEAD OR CHIEF OF
5 A LAW ENFORCEMENT AGENCY MAY DESIGNATE A PERSON TO SUBMIT A
6 WRITTEN REQUEST FOR A DEADLY WEAPON TO BE TURNED OVER TO A LAW
7 ENFORCEMENT AGENCY; TO AMEND THE SILVER ALERT SYSTEM TO EXPAND
8 THE CLASS OF CITIZENS IT PROTECTS; TO PREVENT MOTOR CARRIERS FROM
9 AVOIDING CIVIL PENALTIES OWED TO THE STATE BY TRANSFERRING TITLE
10 PRIOR TO PAYMENT; TO MAKE MINOR CHANGES TO THE DEFINITION OF
11 EMERGENCY IN THE NORTH CAROLINA EMERGENCY MANAGEMENT ACT; TO
12 PROVIDE THAT THE SAMARCAND TRAINING ACADEMY IS SPECIFICALLY
13 EXEMPTED FROM THE UMSTEAD ACT; AND TO CREATE AN EXCEPTION TO THE
14 LENGTH OF SERVICE REQUIREMENTS FOR FORENSIC SCIENTISTS TO BECOME
15 CAREER STATE EMPLOYEES.

16 The General Assembly of North Carolina enacts:

17 **SECTION 1.** Subpart B of Part 5 of Article 13 of Chapter 143B of the General
18 Statutes is amended by adding a new section to read:

19 **"§ 143B-1023. North Carolina Blue Alert System established.**

20 (a) There is established within the North Carolina Center for Missing Persons the Blue
21 Alert System. The purpose of the Blue Alert System is to aid in the apprehension of a suspect who
22 kills or inflicts serious bodily injury on a law enforcement officer by providing a statewide system
23 for the rapid dissemination of information regarding the suspect. The term "serious bodily injury"
24 is as defined in G.S. 14-32.4(a).

25 (b) The Center shall make every effort to rapidly disseminate information on a suspect
26 when the following criteria are met:

- 27 (1) A law enforcement officer is killed or suffers serious bodily injury.
28 (2) A law enforcement agency with jurisdiction (i) determines that the suspect
29 poses a threat to the public and other law enforcement personnel and (ii)
30 possesses information that may assist in locating the suspect, including
31 information regarding the suspect's vehicle, complete or partial license plate
32 information, and a detailed description of the suspect, or that a law enforcement



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officer is missing while on duty under circumstances warranting concern for the law enforcement officer's safety.

(3) The head of a law enforcement agency with jurisdiction recommends the issuance of a blue alert to the Center.

(c) The Center shall adopt guidelines and develop procedures for the statewide implementation of the Blue Alert System and shall provide education and training to encourage radio and television broadcasters to participate in the alert.

(d) The Center shall consult with the Department of Transportation and develop a procedure for the use of overhead permanent changeable message signs to provide information on a suspect when the criteria established in subsection (b) of this section are met. The Center and the Department of Transportation shall develop guidelines for the content, length, and frequency of any message to be placed on the overhead permanent changeable message sign pursuant to the issuance of a blue alert.

(e) The Center shall consult with the Division of Emergency Management in the Department of Public Safety to develop a procedure for the use of the Blue Alert System to provide information on a suspect when the criteria established in subsection (b) of this section are met."

SECTION 2. G.S. 14-269.1(4b) reads as rewritten:

"(4b) By ordering the weapon turned over to a law enforcement agency in the county of trial for (i) the official use of the agency or (ii) sale, trade, or exchange by the agency to a federally licensed firearm dealer in accordance with all applicable State and federal firearm laws. The court may order a disposition of the firearm pursuant to this subdivision only upon the written request of the head or chief of the law enforcement agency or a designee of the head or chief of the law enforcement agency and only if the firearm has a legible, unique identification number. If the law enforcement agency sells the firearm, then the proceeds of the sale shall be remitted to the appropriate county finance officer as provided by G.S. 115C-452 to be used to maintain free public schools. The receiving law enforcement agency shall maintain a record and inventory of all firearms received pursuant to this subdivision."

SECTION 3. G.S. 143B-1022 reads as rewritten:

"§ 143B-1022. North Carolina Silver Alert System established.

(a) There is established within the North Carolina Center for Missing Persons the Silver Alert System. The purpose of the Silver Alert System is to provide a statewide system for the rapid dissemination of information regarding a missing person or missing child who is believed to be suffering from ~~dementia or other cognitive impairment~~, dementia, Alzheimer's disease, or a disability that requires them to be protected from potential abuse or other physical harm, neglect, or exploitation.

(b) If the Center receives a ~~report~~request that involves a missing person or missing child ~~who is believed to be suffering from dementia or other cognitive impairment, for the protection of the missing person or missing child from potential abuse or other physical harm, neglect, or exploitation,~~ as described in subsection (a) of this section, the Center shall issue an alert providing for rapid dissemination of information statewide regarding the missing person or missing child. The Center shall make every effort to disseminate the information as quickly as possible when the person's or child's status as missing has been reported to a law enforcement agency.

(c) The Center shall adopt guidelines and develop procedures for issuing an alert for missing persons and missing children ~~believed to be suffering from dementia or other cognitive impairment as described in subsection (a) of this section~~ and shall provide education and training to encourage radio and television broadcasters to participate in the alert. The guidelines and procedures shall ensure that specific health information about the missing person or missing child is not made public through the alert or otherwise.

...."

SECTION 4. G.S. 20-54 reads as rewritten:

"§ 20-54. Authority for refusing registration or certificate of title.

The Division shall refuse registration or issuance of a certificate of title or any transfer of registration upon any of the following grounds:

...

(13) The Division has been notified by the State Highway Patrol that the owner of the vehicle has failed to pay any civil penalty and fees imposed by the State Highway Patrol for a violation of Part 9 of Article 3 of this Chapter."

SECTION 5. G.S. 166A-19.3(6) reads as rewritten:

"(6) Emergency. – An occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made accidental, military, paramilitary, terrorism, weather-related, public health, explosion-related, or riot-related cause-cause, or technological failure or accident, including, but not limited to, a cyber incident, an explosion, a transportation accident, a radiological accident, or a chemical or other hazardous material incident."

SECTION 6. G.S. 66-58(b) is amended by adding a new subdivision to read:

"(28) Samarcant Training Academy."

SECTION 7. G.S. 126-1.1 reads as rewritten:

"§ 126-1.1. Career State employee defined.

(a) For the purposes of this Chapter, unless the context clearly indicates otherwise, "career State employee" means a State employee or an employee of a local entity who is covered by this Chapter pursuant to G.S. 126-5(a)(2) who:

- (1) Is in a permanent position with a permanent appointment, and
- (2) Has been continuously employed by the State of North Carolina or a local entity as provided in G.S. 126-5(a)(2) in a position subject to the North Carolina Human Resources Act for the immediate 12 preceding months.

(b) As used in this Chapter, "probationary State employee" means a State employee who is in a probationary appointment and is exempt from the provisions of the North Carolina Human Resources Act only because the employee has not been continuously employed by the State for the time period required by subsection (a) or (c) of this section.

(c) Notwithstanding the provisions of subsection (a) above, employees who are hired by a State agency, department or university in a sworn law enforcement position or forensic scientist position and who are required to complete a formal training program prior to assuming law enforcement or forensic scientist duties with the hiring agency, department or university shall become career State employees only after being employed by the agency, department or university for 24 continuous months."

SECTION 8. Section 4 of this act becomes effective October 1, 2016, and applies to violations committed on or after that date. The remainder of this act is effective when it becomes law.





HOUSE BILL 1044: Law Enforcement Omnibus Bill.

2016-2017 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	June 27, 2016
Introduced by:	Reps. Hager, J. Bell, Boles, Burr	Prepared by:	Bill Patterson
Analysis of:	PCS to Fourth Edition H1044-CSTG-71		Staff Attorney

SUMMARY: *House Bill 1044 would make various changes related to law enforcement. The PCS deletes a provision expanding the list of crimes for which an investigative grand jury can be convened, and makes conforming changes to the bill.*

CURRENT LAW AND BILL ANALYSIS: The PCS for House Bill 1044 would make the following changes:

Section 1

Bill Analysis: Section 1 would create a new statewide alert system within the North Carolina Center for Missing Persons, called the "Blue Alert System," to aid in apprehension of a suspect who killed or inflicted serious bodily injury on a law enforcement officer (LEO).

Section 2

Current Law: G.S. 14-269.1 provides the options for confiscation and disposal of deadly weapons used in certain crimes in the discretion of the presiding judge at trial. One option is ordering the weapon turned over to a law enforcement agency in the county of trial for either official use of the agency or sale, trade, or exchange by the agency to a federally licensed firearm dealer. The court may order this disposition only upon the written request of the head or chief of the law enforcement agency.

Bill Analysis: Section 2 would allow, in addition to the head or chief of a law enforcement agency, the designee of one of those individuals to make the written request to the court to obtain the firearm for official use, sale, trade, or exchange.

Section 3

Current Law: G.S. 143B-1022 established the Silver Alert System in North Carolina to provide information regarding missing persons who suffer from dementia or other cognitive impairments.

Bill Analysis: Section 3 would change language for impairments which would trigger a Silver Alert to dementia, Alzheimer's disease or a disability that requires the individual be protected from potential abuse or other physical harm, neglect, or exploitation.

Section 4

Current Law: G.S. 20-54 provides authority for the Division of Motor Vehicles (DMV) to refuse registration or issuance of title to vehicle owners under various circumstances.

Bill Analysis: Section 4 would provide another ground for refusal when the DMV is notified by the State Highway Patrol that the owner has failed to pay civil penalties and fees incurred due to violations of size, weight, construction and equipment restrictions on a highway.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578



House PCS 1044

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Section 5

Current Law: The North Carolina Emergency Management Act defines "emergency" as an "occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made accidental, military, paramilitary, weather-related, or riot-related cause."

Bill Analysis: Section 5 would expand the definition of an "emergency" under the North Carolina Emergency Management Act to include occurrences or imminent threats resulting from terrorism, public health causes, explosions, technological failure or accident, including cyber-incidents, transportation accidents, radiological accidents, or chemical or other hazardous material incidents.

Section 6

Bill Analysis: Section 6 would exempt Samarcand Training Academy from G.S. 66-58(a) which provides restrictions on governmental units when selling merchandise or services.

Section 7

Current Law: G.S. 126-1.1 defines "career State employee" as State employees or certain employees of a local entity that are in a permanent position with permanent appointment and have been continuously employed by that unit in a position subject to the North Carolina Human Resources Act for the immediate 12 preceding months. A caveat to this 12 month requirement is if the employee is in a sworn law enforcement position requiring formal training prior to assuming their duties; these employees become "career State employees" upon being employed for 24 consecutive months.

Bill Analysis: Section 7 would include forensic scientists, who also require formal training prior to assuming their duties, with sworn law enforcement officers as those who can achieve "career State employee" status after being employed for 24 consecutive months.

EFFECTIVE DATE: Section 4 of the act becomes effective October 1, 2016, and applies to violations committed on or after that date. The remainder of the act is effective when it becomes law.

Nicholas Giddings, counsel to House Judiciary IV, and Brad Krehely, counsel to House Judiciary II, substantially contributed to this summary.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

3

HOUSE BILL 548
Committee Substitute Favorable 4/29/15
Third Edition Engrossed 4/30/15

Short Title: Zoning/Modernize & Reorganize.

(Public)

Sponsors:

Referred to:

April 2, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE ZONING MODERNIZATION LEGISLATIVE TASK
3 FORCE.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.(a)** Establishment. – The North Carolina Zoning Modernization
6 Legislative Task Force is established.

7 **SECTION 1.(b)** Membership. – The Task Force shall be composed of 18 members
8 as follows:

9 (1) Nine members appointed by the Speaker of the House of Representatives as
10 follows:

- 11 a. Three persons who are members of the House of Representatives at
12 the time of appointment, at least one of whom represents the minority
13 party. The Speaker shall designate one of the members as cochair.
14 b. A member of the Zoning, Planning, & Land Use Section of the North
15 Carolina Bar Association.
16 c. A representative of the North Carolina Home Builders Association.
17 d. A person employed in the field of zoning administration or zoning
18 enforcement recommended by the North Carolina Association of
19 Zoning Officials.
20 e. A representative from the North Carolina League of Municipalities.
21 f. A realtor recommended by the North Carolina Association of
22 Realtors.
23 g. A representative of NAIOP North Carolina.

24 (2) Nine members appointed by the President Pro Tempore of the Senate as
25 follows:

- 26 a. Three persons who are members of the Senate at the time of
27 appointment, at least one of whom represents the minority party. The
28 President Pro Tempore shall designate one of the members as
29 cochair.
30 b. A certified professional planner recommended by the North Carolina
31 Chapter of the American Planning Association.
32 c. A representative from the North Carolina Association of County
33 Commissioners.
34 d. A Board Certified Professional Engineer recommended by the North
35 Carolina Section of the American Society of Civil Engineers.



- e. A licensed architect recommended by the North Carolina Chapter of the American Institute of Architects.
- f. A faculty member at the University of North Carolina School of Government.
- g. A representative of the North Carolina Farm Bureau.

Appointments shall be made by September 1, 2015, and the first meeting shall be held on or before October 1, 2015. The Task Force shall meet upon the call of the cochaIRS. Vacancies shall be filled by the appointing authority. A quorum of the Task Force shall be a majority of the members.

SECTION 1.(c) Duties. – The Task Force shall make recommendations on whether to consolidate and modernize Article 19 of Chapter 160A of the General Statutes and Article 18 of Chapter 153A of the General Statutes. Specifically, the Task Force shall study and examine the provisions of House Bill 548 from the 2015 Regular Session of the 2015 General Assembly.

SECTION 1.(d) Compensation; Administration. – Members of the Task Force shall receive subsistence and travel allowances at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate. The Legislative Services Officer shall assign professional and clerical staff to assist in the work of the Task Force. The Task Force may hold its meetings in the State Legislative Building or the Legislative Office Building. The Task Force, while in the discharge of its official duties, may exercise all the powers provided under the provisions of G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information, data, or documents within their possession, ascertainable from their records or otherwise available to them, and the power to subpoena witnesses.

SECTION 1.(e) Report. – The Task Force shall report its findings and recommendations to the 2016 Regular Session of the 2015 General Assembly upon its convening. The Task Force shall terminate on May 1, 2016, or upon the filing of its final report, whichever occurs first.

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

D

HOUSE BILL 548
Committee Substitute Favorable 4/29/15
Third Edition Engrossed 4/30/15
PROPOSED SENATE COMMITTEE SUBSTITUTE H548-CSST-127 [v.4]
06/27/2016 08:20:35 PM

Short Title: Conforming Changes/Constitutional Amend.

(Public)

Sponsors:

Referred to:

April 2, 2015

A BILL TO BE ENTITLED
AN ACT TO PROVIDE CONFORMING CHANGES UPON THE VOTERS' APPROVAL OF
AMENDMENTS TO THE NORTH CAROLINA CONSTITUTION TO PROHIBIT
CONDEMNATION OF PRIVATE PROPERTY EXCEPT FOR A PUBLIC USE AND FOR
THE PAYMENT OF JUST COMPENSATION WITH RIGHT OF TRIAL BY JURY IN ALL
CONDEMNATION CASES, TO PROVIDE FOR TAXPAYER PROTECTIONS THAT
ESTABLISH A STATE EMERGENCY SAVINGS RESERVE FUND, AND TO PROTECT
THE RIGHT OF THE PEOPLE TO HUNT, FISH, AND HARVEST WILDLIFE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 40A-3(a) reads as rewritten:

"(a) Private Condemnors. – For the public ~~use or benefit~~, use, the persons or organizations listed below shall have the power of eminent domain and may acquire by purchase or condemnation property for the stated purposes and other works which are authorized by ~~law~~ law:

(1) Corporations, bodies politic or persons have the power of eminent domain for the construction of railroads, power generating facilities, substations, switching stations, microwave towers, roads, alleys, access railroads, turnpikes, street railroads, plank roads, tramroads, canals, ~~telegraphs, telephones, communication facilities~~, electric power lines, electric lights, public water supplies, public sewerage systems, flumes, bridges, facilities related to the distribution of natural gas, and pipelines or mains originating in North Carolina for the transportation of petroleum products, coal, natural gas, limestone or minerals. Land condemned for any liquid pipelines shall:

a. Not be less than 50 feet nor more than 100 feet in width; and

b. Comply with the provisions of G.S. 62-190(b).

The width of land condemned for any natural gas pipelines shall not be more than 100 feet.

...."

SECTION 1.(b) G.S. 40A-3(b) reads as rewritten:

"(b) Local Public Condemnors – Standard Provision. – For the public ~~use or benefit~~, use, the governing body of each municipality or county shall possess the power of eminent domain and may acquire by purchase, gift or condemnation any property, either inside or outside its boundaries, for the following ~~purposes~~ purposes:

...."



1 **SECTION 1.(c)** G.S. 40A-3(b1) reads as rewritten:

2 "(b1) Local Public Condemnors – Modified Provision for Certain Localities. – For the public
3 ~~use or benefit, use,~~ the governing body of each municipality or county shall possess the power of
4 eminent domain and may acquire by purchase, gift or condemnation any property or interest
5 therein, either inside or outside its boundaries, for the following ~~purposes, purposes:~~

6 "

7 **SECTION 1.(d)** G.S. 40A-3(c) reads as rewritten:

8 "(c) Other Public Condemnors. – For the public ~~use or benefit, use,~~ the following political
9 entities shall possess the power of eminent domain and may acquire property by purchase, gift, or
10 condemnation for the stated ~~purposes, purposes:~~

11 "

12 **SECTION 1.(e)** G.S. 40A-3 is amended by adding a new subsection to read:

13 "(d) Connection of Customers. – For the public use, private condemnors, local public
14 condemnors, and other public condemnors in subsections (a), (b), (b1), and (c) of this section shall
15 possess the power of eminent domain and may acquire by purchase, gift, or condemnation any
16 property for the connection of any customer or customers."

17 **SECTION 1.(f)** This section becomes effective January 1, 2017, if a majority of votes
18 are cast in favor of the amendment set out in Section 1.1 of House Bill 3, 2015 Regular Session,
19 and applies to takings occurring on or after that date.

20 **SECTION 2.(a)** G.S. 143C-4-2 reads as rewritten:

21 "**§ 143C-4-2. Emergency Savings Reserve Account Fund and appropriation of General Fund**
22 **unreserved fund balance.**

23 (a) ~~Creation and Source of Funds of Reserve.~~ –The In accordance with Article XV of the
24 North Carolina Constitution, the Emergency Savings Reserve Account Fund is established as a
25 reserve in the General Fund. The Controller shall reserve to the Emergency Savings Reserve
26 Account one fourth of any unreserved fund balance, as determined on a cash basis, remaining in
27 the General Fund at the end of Fund those funds designated as reserved by the General Assembly
28 each fiscal year.

29 (b) Use of Funds. – The Emergency Savings Reserve Account Fund is a component of the
30 unappropriated General Fund balance. Funds reserved to the Emergency Savings Reserve Account
31 Fund shall be available for expenditure only upon an act of appropriation by the General
32 ~~Assembly.~~ Assembly in accordance with Article XV of the North Carolina Constitution.

33 (c) ~~Goal for Savings Reserve Account Fund Balance.~~ – The General Assembly recognizes
34 the need to establish and maintain sufficient reserves to address unanticipated events and
35 circumstances such as natural disasters, economic downturns, threats to public safety, health, and
36 welfare, and other emergencies. It is a goal of the ~~The~~ General Assembly and the State to shall
37 accumulate and maintain a balance in the Emergency Savings Reserve Account Fund equal to or
38 greater than eight percent (8%) twelve and one-half percent (12.5%) of the prior year's General
39 Fund operating budget, amount reserved from the General Fund, excluding General Fund receipts,
40 for capital and operating expenses for the prior fiscal year."

41 **SECTION 2.(b)** G.S. 142-15.4 reads as rewritten:

42 "**§ 142-15.4. (Effective July 1, 2017) Savings from refinancing of general obligation bonds to**
43 **be placed in the Emergency Savings Reserve Account Fund.**

44 Whenever general obligation bonds issued or incurred by the State are refinanced:

- 45 (1) The General Assembly shall not reduce the funds appropriated for servicing the
46 refinanced debt during the fiscal biennium in which the refinancing occurs.
47 (2) The State Controller shall, in conjunction with the State Treasurer, periodically
48 transfer the savings resulting from the refinancing of the debt to the Emergency
49 Savings Reserve Account Fund established pursuant to G.S. 143C-4-2 during
50 the fiscal biennium in which the refinancing occurs.

- (3) The Director of the Budget shall, in the fiscal biennium immediately following the refinancing, adjust the amount of debt service funded in the base budget so that it aligns with actual debt service needs."

SECTION 2.(c) G.S. 142-96 reads as rewritten:

"§ 142-96. (Effective July 1, 2017) Savings from refinancing of special indebtedness to be placed in the Emergency Savings Reserve Account-Fund.

Whenever special indebtedness issued or incurred pursuant to this Article is refinanced:

- (1) The General Assembly shall not reduce the funds appropriated for servicing the refinanced debt during the fiscal biennium in which the refinancing occurs.
- (2) The State Controller shall, in conjunction with the State Treasurer, periodically transfer the savings resulting from the refinancing of the debt to the Emergency Savings Reserve Account-Fund established pursuant to G.S. 143C-4-2 during the fiscal biennium in which the refinancing occurs.
- (3) The Director of the Budget shall, in the fiscal biennium immediately following the refinancing, adjust the amount of debt service funded in the base budget so that it aligns with actual debt service needs."

SECTION 2.(d) This section becomes effective for fiscal years beginning on or after July 1, 2017, if a majority of votes are cast in favor of the amendment set out in Section 2.1 of House Bill 3, 2015 Regular Session.

SECTION 3.(a) G.S. 143-239 reads as rewritten:

"§ 143-239. Statement of purpose.

The purpose of this Article is to establish reasonable regulations to promote wildlife conservation and management and to preserve the future of hunting and fishing ~~create~~ by creating a separate State agency to be known as the North Carolina Wildlife Resources Commission, the function, purpose, and duty of which shall be to manage, restore, develop, cultivate, conserve, protect, and regulate the wildlife resources of the State of North Carolina, and to administer the laws relating to game, game and freshwater fishes, and other wildlife resources enacted by the General Assembly to the end that there may be provided a sound, constructive, comprehensive, continuing, and economical game, game fish, and wildlife program directed by qualified, competent, and representative citizens, who shall have knowledge of or training in the protection, restoration, proper use and management of wildlife resources."

SECTION 3.(b) This section becomes effective January 1, 2017, if a majority of votes are cast in favor of the amendment set out in Section 3.1 of House Bill 3, 2015 Regular Session.

SECTION 4. Except as otherwise provided, this act is effective when it becomes law.



NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 548

DATE _____

S. B. No. _____

Amendment No. _____

(to be filled in by
Principal Clerk)

COMMITTEE SUBSTITUTE ☒

Rep.)

Sen.)

Rabon

1 moves to amend the bill on page 1, line 21

2 () WHICH CHANGES THE TITLE

3 by _____

4 deleting the phrase "originating in North
5 Carolina" and substituting
6 "originating in North Carolina".

7 _____

8 _____

9 _____

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18 _____

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SIGNED

[Signature]

ADOPTED _____ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)





HOUSE BILL 548: Conforming Changes/Constitutional Amend.

2016-2017 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	June 27, 2016
Introduced by:	Reps. Bishop, Stam, Bryan, Hamilton	Prepared by:	Erika Churchill
Analysis of:	PCS to Third Edition H548-CSST-127		Staff Attorney

SUMMARY: *The proposed committee substitute for House Bill 548 would make statutory conforming changes if the voters approve certain constitutional amendments proposed in House Bill 3, 2015 Regular Session, on the following topics:*

- *Prohibit condemnation of private property except for a public use, requiring the payment of just compensation for the property taken, requiring the compensation to be determined by jury trial, if requested by any party.*
- *Establish an Emergency Savings Reserve Fund, with a 2/3 vote of each chamber to expend monies from the Fund, or to amend a required deposit to the Fund.*
- *Provide that the traditional methods of hunting, fishing, and harvesting wildlife are a right of the people, subject reasonable regulation by the General Assembly.*

CURRENT LAW & BILL ANALYSIS:

Eminent Domain

The right of citizens in North Carolina to receive just compensation for property taken by eminent domain for public use is guaranteed under both the United States Constitution and the North Carolina Constitution.

The 5th Amendment to the United States Constitution states that private property shall not "be taken for public use without just compensation." Article I, Section 19 of the North Carolina Constitution states that "[n]o person shall be...in any manner deprived of his ... property, but by the law of the land." The North Carolina Supreme Court has ruled that the fundamental right to just compensation for property taken by eminent domain arises from this section.¹ In addition, Section 1 of the 14th amendment to the United States Constitution provides that no state may "deprive any person of life, liberty, or property, without due process of law."

Chapter 40A of the General Statutes provides condemnation procedures for private condemnors, local public condemnors and other public condemnors. G.S. 40A-3 provides the list of specific purposes for which the power may be used by those condemnors. Other State agencies are granted the power of eminent domain for specified purposes in other Chapters of the General Statutes, such as the Department of Transportation under Chapter 136.

¹ Long v. City of Charlotte, 306 N.C. 187, 293 S.E.2d 101 (1982).

Karen Cochrane-Brown
Director



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House PCS 548

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The North Carolina Supreme Court has ruled that there is no State Constitutional right to a jury trial on the issue of compensation for property taken by eminent domain.² State statutes, however, do authorize a jury trial on the issue of compensation for the taking of property. G.S. 40A-29, 136-109.

Part I of House Bill 3, 2015 Regular Session, would place a constitutional amendment on the November 2016 ballot to add a new section to the North Carolina Constitution that would provide private property cannot be taken for eminent domain except for a public use and that just compensation shall be paid and determined by a jury at the request of any party.

Section 1 of the PCS would, upon adoption of the constitutional amendment by the voters,:

- Amend G.S. 40A-3 to change the purpose for which private, local public, and other public condemnors may condemn property from "public use or benefit" to "public use."
- Modify the types of construction for which private condemnors may acquire property for the public use, by replacing "telegraphs" and "telephones" with "communication facilities," adding "facilities related to the distribution of natural gas," and inserting "natural" before "gas" in the list of commodities for the transportation of which private condemnors may construct pipelines or mains on condemned property.
- Amend G.S. 40A-3 to add a new subsection (d) providing that private condemnors, local public condemnors, and other public condemnors subject to G.S. 40A-3 shall have and may exercise the power of eminent domain to acquire property for the connection of any customer or customers.

Emergency Savings Reserve Fund

In 2006, Chapter 143C, State Budget Act, was enacted to simplify, reorganize, and update the budget statutes, conform the statutes to constitutional provisions governing appropriations, and make other changes. The purpose of the new Chapter 143C is to establish procedures for preparing the recommended State budget, enacting the budget, and administering the budget. Article 4 of that Chapter requires 25% of each year's ending General Fund balance be reserved to the Savings Reserve Account, and provides that the balance can be expended only through an act of appropriation.

Part II of House Bill 3, 2015 Regular Session, would place a constitutional amendment on the November 2016 ballot to add a new section to the North Carolina Constitution that would create a new constitutionally required Emergency Savings Reserve Fund. The General Assembly would be required to reserve 2% of the amount of appropriated each year to the Fund. Bills declining to make the required reserve, and bills appropriating money from the Emergency Savings Reserve Fund, would require a 2/3 vote of both houses. If approved by the voters, this would apply to fiscal years beginning on or after January 1, 2017.

Section 2 of the PCS would amend the statutory savings requirement to reflect the constitutionally required Emergency Savings Reserve Fund, if the voters approve the constitutional amendment.

Hunting, Fishing, and Harvesting Wildlife

The Wildlife Resources Commission is tasked with managing, restoring, developing, cultivating, conserving, protecting, and regulating the wildlife resources of the State of North Carolina, and with administering the laws relating to game, game and freshwater fishes.

² Kaperonis v. NC State Highway Commission, 260 N.C. 587, 133 S.E.2d 464 (1963).

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Part II of House Bill 3, 2015 Regular Session, would place a constitutional amendment on the November 2016 ballot to add a new section to the North Carolina Constitution that would provide a right to hunt, fish and harvest wildlife, using traditional methods subject to reasonable regulations by the General Assembly.

Section 3 of the PCS would clarify that the authorities exercised by the Wildlife Resources Commission are reasonable regulations of the right to hunt, fish, and harvest wildlife, if the voters approve the constitutional amendment.

EFFECTIVE DATE: Except as otherwise provided, effective when it becomes law.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

1

HOUSE BILL 630

Short Title: Alternative WQ Protection for Falls Lake. (Public)

Sponsors: Representative Yarborough (Primary Sponsor).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Environment.

April 14, 2015

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL
RESOURCES AND THE ENVIRONMENTAL MANAGEMENT COMMISSION TO
EXPLORE ALTERNATIVE MEASURES FOR PROTECTING THE WATER QUALITY
OF FALLS LAKE.

The General Assembly of North Carolina enacts:

SECTION 1. In implementing the Falls Lake Nutrient Management Strategy, the
Department of Environment and Natural Resources and the Environmental Management
Commission shall do both of the following:

- (1) Examine the results of the Jordan Lake Nutrient Mitigation Demonstration
Project established pursuant to Section 14.3A of S.L. 2013-360 to determine
if the deployment of similar technology in Falls Lake could reduce or
prevent the adverse impacts of excessive nutrient loading in Falls Lake. No
later than six months after the completion of the Jordan Lake Nutrient
Mitigation Demonstration Project, the Department of Environment and
Natural Resources and the Environmental Management Commission shall
report the results of the determination made pursuant to this subdivision to
the Environmental Review Commission.
- (2) No later than October 1, 2015, consult with the United States Environmental
Protection Agency to determine if all of the components of the Falls Lake
Nutrient Management Strategy are necessary to comply with federal water
quality requirements for Falls Lake and if alternative strategies could be
employed to comply with federal water quality requirements for Falls Lake.
No later than January 1, 2016, the Department of Environment and Natural
Resources and the Environmental Management Commission shall report the
results of the consultation made pursuant to this subdivision to the
Environmental Review Commission.

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





- 1 a. A notice and summary of the declaration shall be published weekly for a
2 period of three consecutive weeks in a newspaper having general
3 circulation in the county or counties where the site is located.
- 4 b. Notice of the written declaration shall be given by first-class mail to
5 persons who have requested such notice. Such notice shall include a
6 summary of the written declaration and state the locations where a copy
7 of the written declaration is available for inspection. The Department
8 shall maintain a mailing list of persons who request notice pursuant to
9 this section.
- 10 c. Notice of the written declaration shall be given by electronic mail to
11 persons who have requested such notice. Such notice shall include a
12 summary of the written declaration and state the locations where a copy
13 of the written declaration is available for inspection. The Department
14 shall maintain a mailing list of persons who request notice pursuant to
15 this section.
- 16 (3) No later than 60 days after issuance of the written declaration, the Department
17 shall conduct a public meeting in the county or counties in which the site is
18 located to explain the written declaration to the public. The Department shall
19 give notice of the hearing at least 15 days prior to the date thereof by all of the
20 following methods:
- 21 a. Publication as provided in subdivision (1) of this subsection, with first
22 publication to occur not less than 30 days prior to the scheduled date of
23 the hearing.
- 24 b. First-class mail to persons who have requested notice as provided in
25 subdivision (2) of this subsection.
- 26 c. Electronic mail to persons who have requested notice as provided in
27 subdivision (2) of this subsection.
- 28 (4) At least 30 days from the latest date on which notice is provided pursuant to
29 subdivision (2) of this subsection shall be allowed for the receipt of written
30 comment on the written declaration prior to issuance of a final risk
31 classification. At least 20 days will be allowed for receipt of written comment
32 following a hearing conducted pursuant to subdivision (3) of this subsection
33 prior to issuance of a final preliminary risk classification.
- 34 ~~(e) Within 30 days of the receipt of all written comment as required by subdivision (4) of~~
35 ~~subsection (b) of this section, the Department shall submit a proposed classification for a coal~~
36 ~~combustion residuals surface impoundment to the Coal Ash Management Commission established~~
37 ~~pursuant to G.S. 130A-309.202. The Commission shall evaluate all information submitted in~~
38 ~~accordance with this Part related to the proposed classification and any other information the~~
39 ~~Commission deems relevant. The Commission shall only approve the proposed classification if it~~
40 ~~determines that the classification was developed in accordance with this section and that the~~
41 ~~classification accurately reflects the level of risk posed by the coal combustion residuals surface~~
42 ~~impoundment. The Commission shall issue its determination in writing, including findings in~~
43 ~~support of its determination. If the Commission fails to act on a proposed classification within 60~~
44 ~~days of receipt of the proposed classification, the proposed classification shall be deemed~~
45 ~~approved. Parties aggrieved by a final decision of the Commission pursuant to this subsection may~~
46 ~~appeal the decision as provided under Article 3 of Chapter 150B of the General Statutes.~~
- 47 (d) No later than 30 days after expiration of the deadline set forth in
48 G.S. 130A-309.211(c1), or any applicable extension granted by the Secretary pursuant
49 G.S. 130A-309.211(c1), the Department shall issue a final classification for each impoundment as
50 follows:

Protection and Restoration Report to the Department no later than January 31 of each year. The Report shall include a summary of all surface water sampling, protection, and restoration activities related to the impoundment for the preceding year, including the status of the identification, assessment, and correction of unpermitted discharges from coal combustion residuals surface impoundments to the surface waters of the State. ~~The owner of a coal combustion residuals surface impoundment shall also submit all information required to be submitted to the Department pursuant to this section to the Coal Ash Management Commission.~~

§ 130A-309.213. Prioritization of coal combustion residuals surface impoundments.

(a) As soon as practicable, but no later than December 31, 2015, the Department shall develop proposed classifications for all coal combustion residuals surface impoundments, including active and retired sites, for the purpose of closure and remediation based on these sites' risks to public health, safety, and welfare; the environment; and natural resources and shall determine a schedule for closure and required remediation that is based on the degree of risk to public health, safety, and welfare; the environment; and natural resources posed by the impoundments and that gives priority to the closure and required remediation of impoundments that pose the greatest risk. In assessing the risk, the Department shall evaluate information received pursuant to G.S. 130A-309.211 and G.S. 130A-309.212 and any other information deemed relevant, ~~relevant and, at a minimum, consider all of the following:~~

- ~~(1) Any hazards to public health, safety, or welfare resulting from the impoundment.~~
- ~~(2) The structural condition and hazard potential of the impoundment.~~
- ~~(3) The proximity of surface waters to the impoundment and whether any surface waters are contaminated or threatened by contamination as a result of the impoundment.~~
- ~~(4) Information concerning the horizontal and vertical extent of soil and groundwater contamination for all contaminants confirmed to be present in groundwater in exceedance of groundwater quality standards and all significant factors affecting contaminant transport.~~
- ~~(5) The location and nature of all receptors and significant exposure pathways.~~
- ~~(6) The geological and hydrogeological features influencing the movement and chemical and physical character of the contaminants.~~
- ~~(7) The amount and characteristics of coal combustion residuals in the impoundment.~~
- ~~(8) Whether the impoundment is located within an area subject to a 100-year flood.~~
- ~~(9) Any other factor the Department deems relevant to establishment of risk.~~

(b) The Department shall issue a proposed classification for each coal combustion residuals surface impoundment based upon the assessment conducted pursuant to subsection (a) of this section as high-risk, intermediate-risk, or low-risk. Within 30 days after a proposed classification has been issued, the Department shall issue a written declaration, including findings of fact, documenting the proposed classification. The Department shall provide for public participation on the proposed risk classification as follows:

- (1) The Department shall make copies of the written declaration issued pursuant to this subsection available for inspection as follows:
 - a. A copy of the declaration shall be provided to the local health director.
 - b. A copy of the declaration shall be provided to the public library located in closest proximity to the site in the county or counties in which the site is located.
 - c. The Department shall post a copy of the declaration on the Department's Web site.
 - d. The Department shall place copies of the declaration in other locations so as to assure the reasonable availability thereof to the public.
- (2) The Department shall give notice of the written declaration issued pursuant to this subsection as follows:

- 1 (2) No later than 30 days from a notification pursuant to subdivision (1) of this
2 subsection, the owner of the coal combustion residuals surface impoundment
3 shall submit a proposed Unpermitted Discharge Corrective Action Plan to the
4 Department for its review and approval. The proposed Unpermitted Discharge
5 Corrective Action Plan shall include, at a minimum, all of the following:
- 6 a. One of the following methods of proposed corrective action:
 - 7 1. Elimination of the unpermitted discharge.
 - 8 2. Application for a National Pollutant Discharge Elimination
9 System (NPDES) permit amendment pursuant to G.S. 143-215.1
10 and Subchapter H of Chapter 2 of Title 15A of the North
11 Carolina Administrative Code to bring the unpermitted discharge
12 under permit regulations.
 - 13 b. A detailed explanation of the reasons for selecting the method of
14 corrective action.
 - 15 c. Specific plans, including engineering details, to prevent the unpermitted
16 discharge.
 - 17 d. A schedule for implementation of the Plan.
 - 18 e. A monitoring plan for evaluating the effectiveness of the proposed
19 corrective action.
 - 20 f. Any other information related to the correction of unpermitted
21 discharges required by the Department.
- 22 (3) The Department shall approve the Unpermitted Discharge Corrective Action
23 Plan if it determines that the Plan complies with the requirements of this
24 subsection and will be sufficient to protect public health, safety, and welfare;
25 the environment; and natural resources.
- 26 (4) No later than 30 days from the approval of the Unpermitted Discharge
27 Corrective Action Plan, the owner shall begin implementation of the Plan in
28 accordance with the Plan's schedule.
- 29 (d) Identification of New Discharges. – No later than October 1, 2014, the owner of a coal
30 combustion residuals surface impoundment shall submit a proposed Plan for the Identification of
31 New Discharges to the Department for its review and approval as provided in this subsection:
- 32 (1) The proposed Plan for the Identification of New Discharges shall include, at a
33 minimum, all of the following:
 - 34 a. A procedure for routine inspection of the coal combustion residuals
35 surface impoundment to identify indicators of potential new discharges,
36 including toe drain outfalls, seeps, and weeps.
 - 37 b. A procedure for determining whether a new discharge is actually
38 present.
 - 39 c. A procedure for notifying the Department when a new discharge is
40 confirmed.
 - 41 d. Any other information related to the identification of new discharges
42 required by the Department.
 - 43 (2) The Department shall approve the Plan for the Identification of New Discharges
44 if it determines that the Plan complies with the requirements of this subsection
45 and will be sufficient to protect public health, safety, and welfare; the
46 environment; and natural resources.
 - 47 (3) No later than 30 days from the approval of the Plan for the Identification of
48 New Discharges, the owner shall begin implementation of the Plan in
49 accordance with the Plan.
- 50 (e) Reporting. – In addition to any other reporting required by the Department, the owner
51 of a coal combustion residuals surface impoundment shall submit an annual Surface Water

1 f. Include any other information related to the topographic map required
2 by the Department.

3 (b) Assessment of Discharges from Coal Combustion Residuals Surface Impoundments to
4 the Surface Waters of the State. – The owner of a coal combustion residuals surface impoundment
5 shall conduct an assessment of discharges from the coal combustion residuals surface
6 impoundment to the surface waters of the State as provided in this subsection. The requirements
7 for assessment of discharges from the coal combustion residuals surface impoundment to the
8 surface waters of the State set out in this subsection are in addition to any other requirements for
9 the assessment of discharges from coal combustion residuals surface impoundments to surface
10 waters of the State applicable to the owners of coal combustion residuals surface impoundments:

11 (1) No later than December 31, 2014, the owner of a coal combustion residuals
12 surface impoundment shall submit a proposed Discharge Assessment Plan to
13 the Department. The Discharge Assessment Plan shall include information
14 sufficient to allow the Department to determine whether any discharge,
15 including a discharge from a toe drain outfall, seep, or weep, has reached the
16 surface waters of the State and has caused a violation of surface water quality
17 standards. The Discharge Assessment Plan shall include, at a minimum, all of
18 the following:

19 a. Upstream and downstream sampling locations within all channels that
20 could potentially carry a discharge.
21 b. A description of the surface water quality analyses that will be
22 performed.
23 c. A sampling schedule, including the frequency and duration of sampling
24 activities.
25 d. Reporting requirements.
26 e. Any other information related to the assessment of discharges required
27 by the Department.

28 (2) The Department shall approve the Discharge Assessment Plan if it determines
29 that the Plan complies with the requirements of this subsection and will be
30 sufficient to protect public health, safety, and welfare; the environment; and
31 natural resources.

32 (3) No later than 30 days from the approval of the Discharge Assessment Plan, the
33 owner shall begin implementation of the Plan in accordance with the Plan's
34 schedule.

35 (c) Corrective Action to Prevent Unpermitted Discharges from Coal Combustion
36 Residuals Surface Impoundments to the Surface Waters of the State. – The owner of a coal
37 combustion residuals surface impoundment shall implement corrective action to prevent
38 unpermitted discharges from the coal combustion residuals surface impoundment to the surface
39 waters of the State as provided in this subsection. The requirements for corrective action to
40 prevent unpermitted discharges from coal combustion residuals surface impoundments to the
41 surface waters of the State set out in this subsection are in addition to any other requirements for
42 corrective action to prevent unpermitted discharges from coal combustion residuals surface
43 impoundments to the surface waters of the State applicable to the owners of coal combustion
44 residuals surface impoundments:

45 (1) If the Department determines, based on information provided pursuant to
46 subsection (a) or (b) of this section, that an unpermitted discharge from a coal
47 combustion residuals surface impoundment, including an unpermitted discharge
48 from a toe drain outfall, seep, or weep, has reached the surface waters of the
49 State, the Department shall notify the owner of the impoundment of its
50 determination.

supply of potable drinking water and an alternate supply of water that is safe for other household uses. Nothing in this section shall be construed to: (i) require an eligible household to connect to a public water supply or receive a filtration system; or (ii) obviate the need for other federal, State, and local permits and approvals. All State entities and local governments shall expedite any permits and approvals required for such projects. The Department may grant an impoundment owner an extension of time, not to exceed one year, to establish permanent water supplies as required by this section, if the Department determines that it is infeasible for the impoundment owner to establish a permanent water supply for a household by October 15, 2019, based on limitations arising from local government resources, including limitations on water supply capacity and staffing limitations for permitting and construction activities.

(d) Reporting. – In addition to any other reporting required by the Department, the owner of a coal combustion residuals surface impoundment shall submit an annual Groundwater Protection and Restoration Report to the Department no later than January 31 of each year. The Report shall include a summary of all groundwater monitoring, protection, and restoration activities related to the impoundment for the preceding year, including the status of the Groundwater Assessment Plan, the Groundwater Assessment Report, the Groundwater Corrective Action Plan, the Drinking Water Supply Well Survey, and the replacement of any contaminated drinking water supply wells. ~~The owner of a coal combustion residuals surface impoundment shall also submit all information required to be submitted to the Department pursuant to this section to the Coal Ash Management Commission.~~

§ 130A-309.212. Identification and assessment of discharges; correction of unpermitted discharges.

(a) Identification of Discharges from Coal Combustion Residuals Surface Impoundments.

–

- (1) The owner of a coal combustion residuals surface impoundment shall identify all discharges from the impoundment as provided in this subsection. The requirements for identifying all discharges from an impoundment set out in this subsection are in addition to any other requirements for identifying discharges applicable to the owners of coal combustion residuals surface impoundments.
- (2) No later than December 31, 2014, the owner of a coal combustion residuals surface impoundment shall submit a topographic map that identifies the location of all (i) outfalls from engineered channels designed or improved for the purpose of collecting water from the toe of the impoundment and (ii) seeps and weeps discharging from the impoundment that are not captured by engineered channels designed or improved for the purpose of collecting water from the toe of the impoundment to the Department. The topographic map shall comply with all of the following:
 - a. Be at a scale as required by the Department.
 - b. Specify the latitude and longitude of each toe drain outfall, seep, and weep.
 - c. Specify whether the discharge from each toe drain outfall, seep, and weep is continuous or intermittent.
 - d. Provide an average flow measurement of the discharge from each toe drain outfall, seep, and weep including a description of the method used to measure average flow.
 - e. Specify whether the discharge from each toe drain outfall, seep, and weep identified reaches the surface waters of the State. If the discharge from a toe drain outfall, seep, or weep reaches the surface waters of the State, the map shall specify the latitude and longitude of where the discharge reaches the surface waters of the State.

owner of the coal combustion residuals surface impoundment. The owner of the coal combustion residuals surface impoundment shall pay for the reasonable costs of such sampling. Nothing in this subsection shall be construed to preclude or impair the right of any property owner to refuse such sampling of wells on their property. If the sampling and water quality analysis indicates that water from a drinking water supply well exceeds groundwater quality standards for constituents associated with the presence of the impoundment, the owner shall replace the contaminated drinking water supply well with an alternate supply of potable drinking water and an alternate supply of water that is safe for other household uses. The alternate supply of potable drinking water shall be supplied within 24 hours of the Department's determination that there is an exceedance of groundwater quality standards attributable to constituents associated with the presence of the impoundment. The alternate supply of water that is safe for other household uses shall be supplied within 30 days of the Department's determination that there is an exceedance of groundwater quality standards attributable to constituents associated with the presence of the impoundment. The requirement to replace a contaminated drinking water supply well with an alternate supply of potable drinking water and an alternate supply of water that is safe for other household uses set out in this subsection is in addition to any other requirements to replace a contaminated drinking water supply well with an alternate supply of potable drinking water or an alternate supply of water that is safe for other household uses applicable to the owners of coal combustion residuals surface impoundments.

(c1) Provision of Permanent Water Supply. – As soon as practicable, but no later than October 15, 2018, the owner of a coal combustion residuals surface impoundment shall establish permanent replacement water supplies for (i) each household that has a drinking water supply well located within a one-half mile radius from the established compliance boundary of a coal combustion residuals impoundment, and is not separated from the impoundment by the mainstem of a river, as that term is defined under G.S. 143-215.22G, or other body of water that would prevent the migration of contaminants through groundwater from the impoundment to a well and (ii) each household that has a drinking water supply well that is located in an area in which contamination resulting from constituents associated with the presence of a coal combustion residuals impoundment is expected to migrate, as demonstrated by groundwater modeling, and hydrogeologic, geologic, and geotechnical investigations of the site, conducted in accordance with the requirements of G.S. 130A-309.214(a)(4) and the results of other modeling or investigations that are may have been submitted pursuant to G.S. 130A-309.213(b)(4). Preference shall be given to permanent replacement water supplies by connection to public water supplies; provided that: (i) a household may elect to receive a filtration system in lieu of a connection to public water supplies; and (ii) if the Department determines that connection to a public water supply to a particular household would be cost-prohibitive, the Department shall authorize provision of a permanent replacement water supply to that household through installation of a filtration system. For households for which filtration systems are installed, the impoundment owner shall be responsible for periodic required maintenance of the filtration system. No later than December 15, 2016, an impoundment owner shall submit information on permanent replacement water supplies proposed to be provided to each household to the Department, including, at a minimum, the type of permanent water supply proposed; the location of the household and its proximity to the nearest connection point to a public water supply; projected cost of the permanent water supply option proposed for the household; and any proposal to connect to a public water supply. The Department shall evaluate information submitted by the impoundment owner and render a final decision to approve or disapprove the plan, including written findings of fact, no later than January 15, 2017. If disapproved, an impoundment owner shall resubmit a plan for the Department's approval within 30 days. No later than April 15, 2017, an impoundment owner shall notify all residents identified in the approved plan of their eligibility for establishment of a permanent water supply. Until such time as an impoundment owner has established a permanent water supply for each household required by this subsection, the impoundment owner shall supply the household with an alternate

groundwater quality as provided in this subsection. The requirements for corrective action for the restoration of groundwater quality set out in this subsection are in addition to any other corrective action for the restoration of groundwater quality requirements applicable to the owners of coal combustion residuals surface impoundments:

- (1) No later than 90 days from submission of the Groundwater Assessment Report required by subsection (a) of this section, or a time frame otherwise approved by the Department not to exceed 180 days from submission of the Groundwater Assessment Report, the owner of the coal combustion residuals surface impoundment shall submit a proposed Groundwater Corrective Action Plan to the Department for its review and approval. The Groundwater Corrective Action Plan shall provide for the restoration of groundwater in conformance with the requirements of Subchapter L of Chapter 2 of Title 15A of the North Carolina Administrative Code. The Groundwater Corrective Action Plan shall include, at a minimum, all of the following:
 - a. A description of all exceedances of the groundwater quality standards, including any exceedances that the owner asserts are the result of natural background conditions.
 - b. A description of the methods for restoring groundwater in conformance with the requirements of Subchapter L of Chapter 2 of Title 15A of the North Carolina Administrative Code and a detailed explanation of the reasons for selecting these methods.
 - c. Specific plans, including engineering details, for restoring groundwater quality.
 - d. A schedule for implementation of the Plan.
 - e. A monitoring plan for evaluating the effectiveness of the proposed corrective action and detecting movement of any contaminant plumes.
 - f. Any other information related to groundwater assessment required by the Department.
- (2) The Department shall approve the Groundwater Corrective Action Plan if it determines that the Plan complies with the requirements of this subsection and will be sufficient to protect public health, safety, and welfare; the environment; and natural resources.
- (3) No later than 30 days from the approval of the Groundwater Corrective Action Plan, the owner shall begin implementation of the Plan in accordance with the Plan's schedule.

(c) Drinking Water Supply Well Survey and Provision of Alternate Water Supply. – No later than October 1, 2014, the owner of a coal combustion residuals surface impoundment shall conduct a Drinking Water Supply Well Survey that identifies all drinking water supply wells within one-half mile down-gradient from the established compliance boundary of the impoundment and submit the Survey to the Department. The Survey shall include well locations, the nature of water uses, available well construction details, and information regarding ownership of the wells. No later than December 1, 2014, the Department shall determine, based on the Survey, which drinking water supply wells the owner is required to sample and how frequently and for what period sampling is required. The Department shall require sampling for drinking water supply wells where data regarding groundwater quality and flow and depth in the area of any surveyed well provide a reasonable basis to predict that the quality of water from the surveyed well may be adversely impacted by constituents associated with the presence of the impoundment. No later than January 1, 2015, the owner shall initiate sampling and water quality analysis of the drinking water supply wells. A property owner may elect to have an independent third party selected from a laboratory certified by the Department's Wastewater/Groundwater Laboratory Certification program sample wells located on their property in lieu of sampling conducted by the

(c) On or after December 31, 2018, the discharge of stormwater into a coal combustion surface impoundment at an electric generating facility where the coal-fired generating units are no longer producing coal combustion residuals is prohibited.

(d) On or after December 31, 2019, the discharge of stormwater into a coal combustion surface impoundment at an electric generating facility where the coal-fired generating units are actively producing coal combustion residuals is prohibited.

(e) On or before December 31, 2018, all electric generating facilities owned by a public utility shall convert to the disposal of "dry" fly ash or the facility shall be retired. For purposes of this subsection, the term "dry" means coal combustion residuals that are not in the form of liquid wastes, wastes containing free liquids, or sludges.

(f) On or before December 31, 2019, all electric generating facilities owned by a public utility shall convert to the disposal of "dry" bottom ash or the facility shall be retired. For purposes of this subsection, the term "dry" means coal combustion residuals that are not in the form of liquid wastes, wastes containing free liquids, or sludges.

§ 130A-309.211. Groundwater assessment and corrective action; drinking water supply well survey and provision of alternate water supply; reporting.

(a) Groundwater Assessment of Coal Combustion Residuals Surface Impoundments. – The owner of a coal combustion residuals surface impoundment shall conduct groundwater monitoring and assessment as provided in this subsection. The requirements for groundwater monitoring and assessment set out in this subsection are in addition to any other groundwater monitoring and assessment requirements applicable to the owners of coal combustion residuals surface impoundments:

(1) No later than December 31, 2014, the owner of a coal combustion residuals surface impoundment shall submit a proposed Groundwater Assessment Plan for the impoundment to the Department for its review and approval. The Groundwater Assessment Plan shall, at a minimum, provide for all of the following:

- a. A description of all receptors and significant exposure pathways.
- b. An assessment of the horizontal and vertical extent of soil and groundwater contamination for all contaminants confirmed to be present in groundwater in exceedance of groundwater quality standards.
- c. A description of all significant factors affecting movement and transport of contaminants.
- d. A description of the geological and hydrogeological features influencing the chemical and physical character of the contaminants.
- e. A schedule for continued groundwater monitoring.
- f. Any other information related to groundwater assessment required by the Department.

(2) The Department shall approve the Groundwater Assessment Plan if it determines that the Plan complies with the requirements of this subsection and will be sufficient to protect public health, safety, and welfare; the environment; and natural resources.

(3) No later than 10 days from approval of the Groundwater Assessment Plan, the owner shall begin implementation of the Plan.

(4) No later than 180 days from approval of the Groundwater Assessment Plan, the owner shall submit a Groundwater Assessment Report to the Department. The Report shall describe all exceedances of groundwater quality standards associated with the impoundment.

(b) Corrective Action for the Restoration of Groundwater Quality. – The owner of a coal combustion residuals surface impoundment shall implement corrective action for the restoration of

- 1 (2) That all legally required State and federal permits or approvals have been issued
2 by the appropriate State and federal agencies or that all State and federal permit
3 requirements have been satisfied and that the permits or approvals have been
4 denied or withheld only because of the local ordinance.
- 5 (3) That local citizens and elected officials have had adequate opportunity to
6 participate in the permitting process.
- 7 (4) That the project involving management of coal combustion residuals and coal
8 combustion products will not pose an unreasonable health or environmental risk
9 to the surrounding locality and that the operator has taken or consented to take
10 reasonable measures to avoid or manage foreseeable risks and to comply to the
11 maximum feasible extent with applicable local ordinances.
- 12 (f) If the Environmental Management Commission does not make all of the findings under
13 subsection (e) of this section, the Commission shall not preempt the challenged local ordinance.
14 The Commission's decision shall be in writing and shall identify the evidence submitted to the
15 Commission plus any additional evidence used in arriving at the decision.
- 16 (g) The decision of the Environmental Management Commission shall be final, unless a
17 party to the action files a written appeal under Article 3 of Chapter 150B of the General Statutes,
18 as modified by this section, within 30 days of the date of the decision. The record on appeal shall
19 consist of all materials and information submitted to or considered by the Commission, the
20 Commission's written decision, a complete transcript of the hearing, the specific findings required
21 by subsection (e) of this section, and any minority positions on the specific findings required by
22 subsection (e) of this section. The scope of judicial review shall be as set forth in G.S. 150B-51,
23 except as this subsection provides regarding the record on appeal.
- 24 (h) If the court reverses or modifies the decision of the Environmental Management
25 Commission, the judge shall set out in writing, which writing shall become part of the record, the
26 reasons for the reversal or modification.
- 27 (i) In computing any period of time prescribed or allowed by the procedure in this section,
28 the provisions of Rule 6(a) of the Rules of Civil Procedure, G.S. 1A-1, shall apply.

29
30 **§ 130A-309.206. Federal preemption; severability.**

31 The provisions of this Part shall be severable, and if any phrase, clause, sentence, or provision
32 is declared to be unconstitutional or otherwise invalid or is preempted by federal law or regulation,
33 the validity of the remainder of this Part shall not be affected thereby.
34

35 **§ 130A-309.207. General rule making for Part.**

36 The Environmental Management Commission shall adopt rules as necessary to implement the
37 provisions of the Part. Such rules shall be exempt from the requirements of G.S. 150B-19.3.
38

39 **§ 130A-309.208:** Reserved for future codification purposes.

40
41 **§ 130A-309.209:** Reserved for future codification purposes.
42

43 Subpart 2. Management of Coal Ash Residuals; Closure of Coal Ash Impoundments.

44 **§ 130A-309.210. Generation, disposal, and use of coal combustion residuals.**

45 (a) On or after October 1, 2014, the construction of new and expansion of existing coal
46 combustion residuals surface impoundments is prohibited.

47 (b) On or after October 1, 2014, the disposal of coal combustion residuals into a coal
48 combustion residuals surface impoundment at an electric generating facility where the coal-fired
49 generating units are no longer producing coal combustion residuals is prohibited.

1 or regulating health, environment, or land use, all provisions of local ordinances, including those
2 regulating land use, adopted by counties, municipalities, or other local authorities that regulate or
3 have the effect of regulating the management of coal combustion residuals and coal combustion
4 products, including regulation of carbon burn-out plants, within the jurisdiction of a local
5 government are invalidated and unenforceable, to the extent necessary to effectuate the purposes
6 of this Part, that do the following:

7 (1) Place any restriction or condition not placed by this Part upon management of
8 coal combustion residuals or coal combustion products within any county, city,
9 or other political subdivision.

10 (2) Conflict or are in any manner inconsistent with the provisions of this Part.

11 (a) As used in this section, "Commission" means the Environmental Management
12 Commission.

13 (b) If a local zoning or land-use ordinance imposes requirements, restrictions, or
14 conditions that are generally applicable to development, including, but not limited to, setback,
15 buffer, and stormwater requirements, and coal combustion residuals and coal combustion products
16 would be regulated under the ordinance of general applicability, the operator of the proposed
17 activities may petition the Environmental Management Commission to review the matter. After
18 receipt of a petition, the Commission shall hold a hearing in accordance with the procedures in
19 subsection (c) of this section and shall determine whether or to what extent to preempt the local
20 ordinance to allow for the management of coal combustion residuals and coal combustion
21 products.

22 (c) When a petition described in subsection (b) of this section has been filed with the
23 Environmental Management Commission, the Commission shall hold a public hearing to consider
24 the petition. The public hearing shall be held in the affected locality within 60 days after receipt of
25 the petition by the Commission. The Commission shall give notice of the public hearing by both
26 of the following means:

27 (1) Publication in a newspaper or newspapers having general circulation in the
28 county or counties where the activities are to be conducted, once a week for
29 three consecutive weeks, the first notice appearing at least 30 days prior to the
30 scheduled date of the hearing.

31 (2) First-class mail to persons who have requested notice. The Commission shall
32 maintain a mailing list of persons who request notice in advance of the hearing
33 pursuant to this section. Notice by mail shall be complete upon deposit of a
34 copy of the notice in a postage-paid wrapper addressed to the person to be
35 notified at the address that appears on the mailing list maintained by the
36 Commission in a post office or official depository under the exclusive care and
37 custody of the United States Postal Service.

38 (d) Any interested person may appear before the Environmental Management Commission
39 at the hearing to offer testimony. In addition to testimony before the Commission, any interested
40 person may submit written evidence to the Commission for the Commission's consideration. At
41 least 20 days shall be allowed for receipt of written comment following the hearing.

42 (e) A local zoning or land-use ordinance is presumed to be valid and enforceable to the
43 extent the zoning or land-use ordinance imposes requirements, restrictions, or conditions that are
44 generally applicable to development, including, but not limited to, setback, buffer, and stormwater
45 requirements, unless the Environmental Management Commission makes a finding of fact to the
46 contrary. The Commission shall determine whether or to what extent to preempt local ordinances
47 so as to allow the project involving management of coal combustion residuals and coal
48 combustion products no later than 60 days after conclusion of the hearing. The Commission shall
49 preempt a local ordinance only if the Commission makes all of the following findings:

50 (1) That there is a local ordinance that would regulate the management of coal
51 combustion residuals and coal combustion products.

information as the Department may prescribe, for the dewatering activities. The Department shall accept written comment on a draft permit decision for a period of not less than 30 days or more than 60 days prior to issuance or denial of such a permit. If the Department fails to act within any time period set out in this subsection, the applicant may treat the failure to act as a denial of the permit and may challenge the denial as provided in Chapter 150B of the General Statutes.

§ 130A-309.204. Reports.

(a) The Department shall submit quarterly written reports to the Environmental Review Commission ~~and the Coal Ash Management Commission~~ on its operations, activities, programs, and progress with respect to its obligations under this Part concerning all coal combustion residuals surface impoundments. At a minimum, the report shall include information concerning the status of assessment, corrective action, prioritization, and closure for each coal combustion residuals surface impoundment and information on costs connected therewith. The report shall include an executive summary of each annual Groundwater Protection and Restoration Report submitted to the Department by the operator of any coal combustion residuals surface impoundments pursuant to G.S. 130A-309.211(d) and a summary of all groundwater sampling, protection, and restoration activities related to the impoundment for the preceding year. The report shall also include an executive summary of each annual Surface Water Protection and Restoration Report submitted to the Department by the operator of any coal combustion residuals surface impoundments pursuant to G.S. 130A-309.212(e) and a summary of all surface water sampling, protection, and restoration activities related to the impoundment for the preceding year, including the status of the identification, assessment, and correction of unpermitted discharges from coal combustion residuals surface impoundments to the surface waters of the State. The Department shall supplement the written reports required by this subsection with additional written and oral reports as may be requested by the Environmental Review Commission. The Department shall submit the written reports required by this subsection whether or not the General Assembly is in session at the time the report is due.

(b) On or before October 1 of each year, the Department shall report to each member of the General Assembly who has a coal combustion residuals surface impoundment in the member's district. This report shall include the location of each impoundment in the member's district, the amount of coal combustion residuals known or believed to be located in the impoundment, the last action taken at the impoundment, and the date of that last action.

(c) On or before October 1 of each year, a public utility generating coal combustion residuals and coal combustion products shall submit an annual summary to the Department. The annual summary shall be for the period of July 1 through June 30 and shall include all of the following:

- (1) The volume of coal combustion residuals and products produced.
- (2) The volume of coal combustion residuals disposed.
- (3) The volume of coal combustion products used in structural fill projects.
- (4) The volume of coal combustion products beneficially used, other than for structural fill.

§ 130A-309.205. Local ordinances regulating management of coal combustion residuals and coal combustion products invalid; petition to preempt local ordinance.

(a) It is the intent of the General Assembly to maintain a uniform system for the management of coal combustion residuals and coal combustion products, including matters of disposal and beneficial use, and to place limitations upon the exercise by all units of local government in North Carolina of the power to regulate the management of coal combustion residuals and coal combustion products by means of ordinances, property restrictions, zoning regulations, or otherwise. Notwithstanding any authority granted to counties, municipalities, or other local authorities to adopt local ordinances, including those imposing taxes, fees, or charges

1 ~~regulations, or guidelines in conformance with those established by any federal agency~~
2 ~~interpreting and applying provisions of federal law.~~

3 ~~(l) Meetings. The Commission shall meet at least once every two months and may hold~~
4 ~~special meetings at any time and place within the State at the call of the Chair or upon the written~~
5 ~~request of at least five members.~~

6 ~~(m) Reports. The Commission shall submit quarterly written reports as to its operation,~~
7 ~~activities, programs, and progress to the Environmental Review Commission. The Commission~~
8 ~~shall supplement the written reports required by this subsection with additional written and oral~~
9 ~~reports as may be requested by the Environmental Review Commission. The Commission shall~~
10 ~~submit the written reports required by this subsection whether or not the General Assembly is in~~
11 ~~session at the time the report is due.~~

12 ~~(n) Administrative Location; Independence. The Commission shall be administratively~~
13 ~~located in the Division of Emergency Management of the Department of Public Safety. The~~
14 ~~Commission shall exercise all of its powers and duties independently and shall not be subject to~~
15 ~~the supervision, direction, or control of the Division or Department.~~

16 ~~(o) Terms of Members. Members of the Commission shall serve terms of six years,~~
17 ~~beginning effective July 1 of the year of appointment.~~

18
19 **§ 130A-309.203. Expedited permit review.**

20 (a) The Department shall act as expeditiously as practicable, but no later than the deadlines
21 established under subsection (b) of this section, except in compliance with subsection (c) of this
22 section, to issue all permits necessary to conduct activities required by this Part.

23 (b) Notwithstanding G.S. 130A-295.8(e), the Department shall determine whether an
24 application for any permit necessary to conduct activities required by this Part is complete within
25 30 days after the Department receives the application for the permit. A determination of
26 completeness means that the application includes all required components but does not mean that
27 the required components provide all of the information that is required for the Department to make
28 a decision on the application. If the Department determines that an application is not complete, the
29 Department shall notify the applicant of the components needed to complete the application. An
30 applicant may submit additional information to the Department to cure the deficiencies in the
31 application. The Department shall make a final determination as to whether the application is
32 complete within the later of (i) 30 days after the Department receives the application for the permit
33 less the number of days that the applicant uses to provide the additional information or (ii) 10 days
34 after the Department receives the additional information from the applicant. The Department shall
35 issue a draft permit decision on an application for a permit within 90 days after the Department
36 determines that the application is complete. The Department shall hold a public hearing and accept
37 written comment on the draft permit decision for a period of not less than 30 or more than 60 days
38 after the Department issues a draft permit decision. The Department shall issue a final permit
39 decision on an application for a permit within 60 days after the comment period on the draft
40 permit decision closes. If the Department fails to act within any time period set out in this
41 subsection, the applicant may treat the failure to act as a denial of the permit and may challenge
42 the denial as provided in Chapter 150B of the General Statutes.

43 (c) If the Department finds that compliance with the deadlines established under
44 subsection (b) of this section would result in insufficient review of a permit application that would
45 pose a risk to public health, safety, and welfare; the environment; or natural resources, the
46 applicable deadline shall be waived for the application as necessary to allow for adequate review.
47 If a deadline is waived pursuant to this subsection, the Secretary shall issue a written declaration,
48 including findings of fact, documenting the need for the waiver.

49 (d) Notwithstanding any other provision of this section or any other provision of law, the
50 Department shall either issue or deny a permit required for dewatering of a retired impoundment
51 within 90 days of receipt of a completed application, in such a form and including such

- 1 (1) ~~The initial appointment of the Chair no later than October 1, 2014. If the initial~~
2 ~~appointment is not made by that date, the Chair shall be elected by a vote of the~~
3 ~~membership; and~~
- 4 (2) ~~Appointments of a subsequent Chair, including appointments to fill a vacancy~~
5 ~~of the Chair created by resignation, dismissal, death, or disability of the Chair,~~
6 ~~no later than 30 days after the last day of the previous Chair's term. If an~~
7 ~~appointment of a subsequent Chair is not made by that date, the Chair shall be~~
8 ~~elected by a vote of the membership.~~
- 9 (d) ~~Vacancies.— Any appointment to fill a vacancy on the Commission created by the~~
10 ~~resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired~~
11 ~~term. The Governor may reappoint a gubernatorial appointee of the Commission to an additional~~
12 ~~term if, at the time of the reappointment, the member qualifies for membership on the Commission~~
13 ~~under subdivisions (7) through (9) of subsection (b) of this section. Appointments by the General~~
14 ~~Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments~~
15 ~~shall be filled in accordance with G.S. 120-122.~~
- 16 (e) ~~Removal.— The Governor shall have the power to remove any member of the~~
17 ~~Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the~~
18 ~~provisions of G.S. 143B-13 of the Executive Organization Act of 1973.~~
- 19 (f) ~~Powers and Duties.— The Commission shall have all of the following powers and~~
20 ~~duties:~~
- 21 (1) ~~To review and approve the classification of coal combustion residuals surface~~
22 ~~impoundments required by G.S. 130A-309.213.~~
- 23 (2) ~~To review and approve Coal Combustion Residuals Surface Impoundment~~
24 ~~Closure Plans as provided in G.S. 130A-309.214.~~
- 25 (3) ~~To review and make recommendations on the provisions of this Part and other~~
26 ~~statutes and rules related to the management of coal combustion residuals.~~
- 27 (4) ~~To undertake any additional studies as requested by the General Assembly.~~
- 28 (g) ~~Reimbursement.— The members of the Commission shall receive per diem and~~
29 ~~necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.~~
- 30 (h) ~~Quorum.— Five members of the Commission shall constitute a quorum for the~~
31 ~~transaction of business.~~
- 32 (i) ~~Staff.— The Commission is authorized and empowered to employ staff as the~~
33 ~~Commission may determine to be necessary for the proper discharge of the Commission's duties~~
34 ~~and responsibilities. The Chair of the Commission shall organize and direct the work of the~~
35 ~~Commission staff. The salaries and compensation of all such personnel shall be fixed in the~~
36 ~~manner provided by law for fixing and regulating salaries and compensation by other State~~
37 ~~agencies. The Chair, within allowed budgetary limits and as allowed by law, shall authorize and~~
38 ~~approve travel, subsistence, and related expenses of such personnel incurred while traveling on~~
39 ~~official business. All State agencies, including the constituent institutions of The University of~~
40 ~~North Carolina, shall provide information and support to the Commission upon request.~~
- 41 (j) ~~Repealed by Session Laws 2015-9, s. 1.1, effective April 27, 2015.~~
- 42 (k) ~~Covered Persons; Conflicts of Interest; Disclosure.— All members of the Commission~~
43 ~~are covered persons for the purposes of Chapter 138A of the General Statutes, the State~~
44 ~~Government Ethics Act. As covered persons, members of the Commission shall comply with the~~
45 ~~applicable requirements of the State Government Ethics Act, including mandatory training, the~~
46 ~~public disclosure of economic interests, and ethical standards for covered persons. Members of the~~
47 ~~Commission shall comply with the provisions of the State Government Ethics Act to avoid~~
48 ~~conflicts of interest. The Governor may require additional disclosure of potential conflicts of~~
49 ~~interest by members. The Governor may promulgate criteria regarding conflicts of interest and~~
50 ~~disclosure thereof for determining the eligibility of persons under this subsection, giving due~~
51 ~~regard to the requirements of federal legislation, and, for this purpose, may promulgate rules,~~

- 1 (15) "Use or reuse of coal combustion products" means the procedure whereby coal
2 combustion products are directly used as either of the following:
3 a. As an ingredient in an industrial process to make a product, unless
4 distinct components of the coal combustion products are recovered as
5 separate end products.
6 b. In a function or application as an effective substitute for a commercial
7 product or natural resource.
8

9 **~~§ 130A-309.202. (Repealed effective June 30, 2030) Coal Ash Management Commission.~~**

10 (a) ~~Creation.~~ In recognition of the complexity and magnitude of the issues associated
11 with the management of coal combustion residuals and the proper closure and remediation of coal
12 combustion residuals surface impoundments, the Coal Ash Management Commission is hereby
13 established.

14 (b) ~~Membership.~~ The Commission shall consist of nine members as follows:

- 15 (1) ~~One appointed by the General Assembly upon recommendation of the President~~
16 ~~Pro Tempore of the Senate in accordance with G.S. 120-121 who shall at the~~
17 ~~time of appointment be a resident of the State.~~
18 (2) ~~One appointed by the General Assembly upon recommendation of the President~~
19 ~~Pro Tempore of the Senate in accordance with G.S. 120-121 who shall at the~~
20 ~~time of appointment have special training or scientific expertise in waste~~
21 ~~management, including solid waste disposal, hauling, or beneficial use.~~
22 (3) ~~One appointed by the General Assembly upon recommendation of the President~~
23 ~~Pro Tempore of the Senate in accordance with G.S. 120-121 who shall at the~~
24 ~~time of appointment be a licensed physician or a person with experience in~~
25 ~~public health.~~
26 (4) ~~One appointed by the General Assembly upon recommendation of the Speaker~~
27 ~~of the House of Representatives in accordance with G.S. 120-121 who shall at~~
28 ~~the time of appointment be a member of a nongovernmental conservation~~
29 ~~interest.~~
30 (5) ~~One appointed by the General Assembly upon recommendation of the Speaker~~
31 ~~of the House of Representatives in accordance with G.S. 120-121 who shall at~~
32 ~~the time of appointment have special training or scientific expertise in waste~~
33 ~~management, including solid waste disposal, hauling, or beneficial use, or is a~~
34 ~~representative of or on the faculty of a State college or university that conducts~~
35 ~~coal ash research.~~
36 (6) ~~One appointed by the General Assembly upon recommendation of the Speaker~~
37 ~~of the House of Representatives in accordance with G.S. 120-121 who shall at~~
38 ~~the time of appointment be a representative of an electric membership~~
39 ~~corporation organized under Article 2 of Chapter 117 of the General Statutes~~
40 ~~and have a background in power supply resource planning and engineering.~~
41 (7) ~~One appointed by the Governor who shall at the time of appointment have~~
42 ~~experience in economic development.~~
43 (8) ~~One appointed by the Governor who shall at the time of appointment have~~
44 ~~expertise in determining and evaluating the costs associated with electricity~~
45 ~~generation and establishing the rates associated with electricity consumption.~~
46 (9) ~~One appointed by the Governor who shall at the time of appointment be a~~
47 ~~person with experience in science or engineering in the manufacturing sector.~~

48 (c) ~~Chair.~~ The Governor shall appoint the Chair of the Commission from among the
49 Commission's members, and that person shall serve at the pleasure of the Governor. The Chair
50 shall serve two year terms. The Governor shall make:

- (6) "Coal combustion residuals surface impoundment" means a topographic depression, excavation, or diked area that is (i) primarily formed from earthen materials; (ii) without a base liner approved for use by Article 9 of Chapter 130A of the General Statutes or rules adopted thereunder for a combustion products landfill or coal combustion residuals landfill, industrial landfill, or municipal solid waste landfill; and (iii) designed to hold accumulated coal combustion residuals in the form of liquid wastes, wastes containing free liquids, or sludges, and that is not backfilled or otherwise covered during periods of deposition. "Coal combustion residuals surface impoundment" shall only include impoundments owned by a public utility, as defined in G.S. 62-3. "Coal combustion residuals surface impoundment" includes all of the following:
- a. An impoundment that is dry due to the deposited liquid having evaporated, volatilized, or leached.
 - b. An impoundment that is wet with exposed liquid.
 - c. Lagoons, ponds, aeration pits, settling ponds, tailings ponds, and sludge pits, when these structures are designed to hold accumulated coal combustion residuals.
 - d. A coal combustion residuals surface impoundment that has been covered with soil or other material after the final deposition of coal combustion residuals at the impoundment.
- ~~(7) "Commission" means the Coal Ash Management Commission.~~
- (8) "Flue gas desulfurization material" means the material produced through a process used to reduce sulfur dioxide emissions from the exhaust gas system of a coal-fired boiler. The physical nature of these materials varies from a wet sludge to a dry powdered material, depending on the process, and their composition comprises either sulfites, sulfates, or a mixture thereof.
- (9) "Fly ash" means the very fine, powdery material, composed mostly of silica with nearly all particles spherical in shape, which is a product of burning finely ground coal in a boiler to produce electricity and is removed from the plant exhaust gases by air emission control devices.
- (10) "Minerals" means soil, clay, coal, phosphate, metallic ore, and any other solid material or substance of commercial value found in natural deposits on or in the earth.
- (11) "Open pit mine" means an excavation made at the surface of the ground for the purpose of extracting minerals, inorganic and organic, from their natural deposits, which excavation is open to the surface.
- (12) "Owner" or "owner of a coal combustion residuals surface impoundment" means a public utility, as defined in G.S. 62-3, that owns a coal combustion residuals surface impoundment.
- (13) "Receptor" means any human, plant, animal, or structure which is, or has the potential to be, affected by the release or migration of contaminants. Any well constructed for the purpose of monitoring groundwater and contaminant concentrations shall not be considered a receptor.
- (14) "Structural fill" means an engineered fill with a projected beneficial end use constructed using coal combustion products that are properly placed and compacted. For purposes of this Part, the term includes fill used to reclaim open pit mines and for embankments, greenscapes, foundations, construction foundations, and for bases or sub-bases under a structure or a footprint of a paved road, parking lot, sidewalk, walkway, or similar structure.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

H

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**HOUSE BILL 630
PROPOSED SENATE COMMITTEE SUBSTITUTE H630-CSRI-32 [v.2]
06/27/2016 08:34:11 PM**

Short Title: Drinking Water Protect'n/Coal Ash Cleanup Act.

(Public)

Sponsors:

Referred to:

April 14, 2015

A BILL TO BE ENTITLED
AN ACT TO (1) REQUIRE A COAL COMBUSTION RESIDUALS IMPOUNDMENT OWNER
TO PROVIDE PERMANENT ALTERNATIVE WATER SUPPLIES FOR RESIDENTS IN
AREAS SURROUNDING COAL COMBUSTION RESIDUALS SURFACE
IMPOUNDMENTS; (2) REPEAL STATUTORY PROVISIONS RELATED TO THE COAL
ASH MANAGEMENT COMMISSION; (3) MODIFY THE CLOSURE REQUIREMENTS
FOR COAL COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS UNDER THE
COAL ASH MANAGEMENT ACT OF 2014; AND (4) MODIFY APPOINTMENTS TO
THE MINING COMMISSION AND THE OIL AND GAS COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Part 2I of Article 9 of Chapter 130A of the General Statutes reads as rewritten:

"Part 2I. Coal Ash Management.

Subpart 1. Short Title, Definitions, and General Provisions.

§ 130A-309.200. Title.

This Part may be cited as the "Coal Ash Management Act of 2014."

§ 130A-309.201. Definitions.

Unless a different meaning is required by the context, the definitions of G.S. 130A-290 and the following definitions apply throughout this Part:

- (1) "Beneficial and beneficial use" means projects promoting public health and environmental protection, offering equivalent success relative to other alternatives, and preserving natural resources.
- (2) "Boiler slag" means the molten bottom ash collected at the base of slag tap and cyclone type furnaces that is quenched with water. It is made up of hard, black, angular particles that have a smooth, glassy appearance.
- (3) "Bottom ash" means the agglomerated, angular ash particles formed in pulverized coal furnaces that are too large to be carried in the flue gases and collect on the furnace walls or fall through open grates to an ash hopper at the bottom of the furnace.
- (4) "Coal combustion products" it means fly ash, bottom ash, boiler slag, or flue gas desulfurization materials that are beneficially used, including use for structural fill.
- (5) "Coal combustion residuals" has the same meaning as defined in G.S. 130A-290.



1 impoundment; and (iii) that compliance with the deadline cannot be achieved by application of
2 best available technology found to be economically reasonable at the time and would produce
3 serious hardship without equal or greater benefits to the public. As soon as practicable, but no later
4 than 60 days from receipt of an application, the Secretary shall evaluate the information submitted
5 in conjunction with the application, and any other information the Secretary deems relevant, to
6 determine whether the information supports issuance of a variance. ~~After such evaluation, if the~~
7 ~~Secretary finds that the information supports issuance of a variance from the deadline, the~~
8 ~~Secretary shall issue a proposed variance. Within 10 days after a proposed variance has been~~
9 ~~issued, the Secretary shall issue a written declaration, including findings of fact, documenting the~~
10 ~~proposed variance.~~

11 (a2) The Department shall provide for public participation on ~~at the~~ proposed variance in the
12 manner provided by G.S. 130A-309.214(b) and shall take the public input received through the
13 process into account in its decision concerning ~~the proposed issuance of a variance. Within 30 days~~
14 ~~of the receipt of all public input received, the Department shall submit a proposed variance to the~~
15 ~~Coal Ash Management Commission. The Commission shall evaluate all information submitted in~~
16 ~~accordance with this section and any other information the Commission deems relevant. The~~
17 ~~Commission-Department~~ shall only approve a variance if it determines that compliance with the
18 deadline cannot be achieved by application of best available technology found to be economically
19 reasonable at the time and would produce serious hardship without equal or greater benefits to the
20 public. The ~~Commission-Department~~ shall issue its determination in writing, including findings in
21 support of its determination. If the ~~Commission-Department~~ fails to act on a variance request
22 within 60 days of receipt, the variance shall be deemed denied.

23 (a3) Parties aggrieved by a final decision of the Commission pursuant to this subsection
24 may appeal the decision as provided under Article 3 of Chapter 150B of the General Statutes.

25 (b) ~~A variance granted pursuant to this section shall not extend a deadline for closure of an~~
26 ~~impoundment more than three years beyond the date applicable to the impoundment as provided~~
27 ~~under G.S. 130A-309.214.~~

28 (c) ~~No more than one variance may be granted pursuant to this section per impoundment.~~

29
30 **"§ 130A-309.216. Ash beneficiation projects.**

31 (a) On or before January 1, 2017, an impoundment owner shall: (i) identify, at a minimum,
32 impoundments at two sites located within the State with ash stored in the impoundments on that
33 date that is suitable for processing for cementitious purposes; and (ii) enter into a binding
34 agreement for the installation and operation of an ash beneficiation project at each site capable of
35 annually processing three hundred thousand (300,000) tons of ash to specifications appropriate for
36 cementitious products, with all ash processed to be removed from the impoundment(s) located at
37 the sites. As soon as legally practicable thereafter, the impoundment owner shall apply for all
38 permits necessary for the ash beneficiation projects from the Department. The Department shall
39 expedite any State permits and approvals required for such projects. No later than 24 months after
40 issuance of all necessary permits, operation of the ash beneficiation projects shall be commenced.

41 (b) On or before July 1, 2017, an impoundment owner shall: (i) identify an impoundment
42 at an additional site located within the State with ash stored in the impoundment on that date that
43 is suitable for processing for cementitious purposes; and (ii) enter into a binding agreement for the
44 installation and operation of an ash beneficiation project capable of annually processing three
45 hundred thousand (300,000) tons of ash to specifications appropriate for cementitious products,
46 with all ash processed to be removed from the impoundment(s) located at the site. As soon as
47 legally practicable thereafter, the impoundment owner shall apply for all permits necessary for the
48 ash beneficiation project from the Department. The Department shall expedite any State permits
49 and approvals required for such projects. No later than 24 months after issuance of all necessary
50 permits, operation of the ash beneficiation projects shall be commenced.

disapprove a proposed Closure Plan within 120 days after a complete Closure Plan has been submitted, the person who submitted the proposed Closure Plan may treat the Closure Plan as having been disapproved at the end of that time period. The Department may require a person who proposes a Closure Plan to supply any additional information necessary for the Department to approve or disapprove the Closure Plan.

~~(d) Within 30 days of its approval of a Coal Combustion Residuals Surface Impoundment Closure Plan, the Department shall submit the Closure Plan to the Coal Ash Management Commission. The Commission shall evaluate all information submitted in accordance with this Part related to the Closure Plan and any other information the Commission deems relevant. The Commission shall approve the Closure Plan if it determines that the Closure Plan was developed in accordance with this section, that implementation of the Closure Plan according to the Closure Plan's schedule is technologically and economically feasible, and the Closure Plan is protective of the public health, safety, and welfare; the environment; and natural resources. In addition, the Commission may consider any impact on electricity costs and reliability, but this factor may not be dispositive of the Commission's determination. The Commission shall issue its determination in writing, including findings in support of its determination. If the Commission fails to act on a Closure Plan within 60 days of receipt of the Closure Plan, the Closure Plan shall be deemed approved. Parties aggrieved by a final decision of the Commission pursuant to this subsection may appeal the decision as provided under Article 3 of Chapter 150B of the General Statutes.~~

(e) As soon as practicable, but no later than 60 days after a Coal Combustion Residuals Surface Impoundment Closure Plan has been approved by the ~~Coal Ash Management Commission, Department~~, the owner of the coal combustion residuals impoundment shall begin implementation of the approved plan. Modifications to an approved Closure Plan may only be allowed in conformance with the requirements of this Part, upon written request of an owner of an impoundment, with the written approval of the Department, and after public notice of the change in accordance with the requirements of subdivision (2) of subsection (b) of this section. Provided, however, minor technical modifications may be made in accordance with standard Department procedures for such minor modifications and may be made without written approval of the Department or public notice of the change.

(f) Nothing in this section shall be construed to obviate the need for sampling, remediation, and monitoring activities at the site as required by G.S. 130A-309.211 and G.S. 130A-309.310 [G.S. 130A-309.212].

§ 130A-309.215. Variance authority.

(a) In recognition of the complexity and magnitude of the issues surrounding the management of coal combustion residuals and coal combustion residuals surface impoundments, the General Assembly authorizes the ~~Commission Secretary~~ to grant a variance to extend any deadline for closure of an impoundment established under G.S. 130A-309.214 in conformance with the requirements of this section, under this act, on the Secretary's own motion, or that of an impoundment owner, on the basis that compliance with the deadline cannot be achieved by application of best available technology found to be economically reasonable at the time and would produce serious hardship without equal or greater benefits to the public. To request such a variance the owner of an impoundment

(a1) For variances requested by an impoundment owner, the owner shall, no earlier than two years one year prior to the applicable deadline, submit an application in a form acceptable to the Department which shall include, at a minimum, all of the following information: identification of the site, applicable requirements, and applicable deadlines for which a variance is sought, and the site-specific circumstances that support the need for the variance. The owner of the impoundment shall also provide detailed information that demonstrates (i) the owner has substantially complied with all other requirements and deadlines established by this Part; (ii) the owner has made good faith efforts to comply with the applicable deadline for closure of the

- 1 a. A copy of the proposed Closure Plan shall be provided to the local
- 2 health director.
- 3 b. A copy of the proposed Closure Plan shall be provided to the public
- 4 library located in closest proximity to the site in the county or counties
- 5 in which the site is located.
- 6 c. The Department shall post a copy of the proposed Closure Plan on the
- 7 Department's Web site.
- 8 d. The Department shall place copies of the declaration in other locations
- 9 so as to assure the reasonable availability thereof to the public.
- 10 (2) Before approving a proposed Closure Plan, the Department shall give notice as
- 11 follows:
- 12 a. A notice and summary of the proposed Closure Plan shall be published
- 13 weekly for a period of three consecutive weeks in a newspaper having
- 14 general circulation in the county or counties where the site is located.
- 15 b. Notice that a proposed Closure Plan has been developed shall be given
- 16 by first-class mail to persons who have requested such notice. Such
- 17 notice shall include a summary of the proposed Closure Plan and state
- 18 the locations where a copy of the proposed Closure Plan is available for
- 19 inspection. The Department shall maintain a mailing list of persons who
- 20 request notice pursuant to this section.
- 21 c. Notice that a proposed Closure Plan has been developed shall be given
- 22 by electronic mail to persons who have requested such notice. Such
- 23 notice shall include a summary of the proposed Closure Plan and state
- 24 the locations where a copy of the proposed Closure Plan is available for
- 25 inspection. The Department shall maintain a mailing list of persons who
- 26 request notice pursuant to this section.
- 27 (3) No later than 60 days after receipt of a proposed Closure Plan, the Department
- 28 shall conduct a public meeting in the county or counties in which the site is
- 29 located to explain the proposed Closure Plan and alternatives to the public. The
- 30 Department shall give notice of the hearing at least 30 days prior to the date
- 31 thereof by all of the following methods:
- 32 a. Publication as provided in subdivision (1) of this subsection, with first
- 33 publication to occur not less than 30 days prior to the scheduled date of
- 34 the hearing.
- 35 b. First-class mail to persons who have requested notice as provided in
- 36 subdivision (2) of this subsection.
- 37 c. Electronic mail to persons who have requested notice as provided in
- 38 subdivision (2) of this subsection.
- 39 (4) At least 30 days from the latest date on which notice is provided pursuant to
- 40 subdivision (2) of this subsection shall be allowed for the receipt of written
- 41 comment on the proposed Closure Plan prior to its approval. At least 20 days
- 42 will be allowed for receipt of written comment following a hearing conducted
- 43 pursuant to subdivision (3) of this subsection prior to the approval of the
- 44 proposed Closure Plan.
- 45 (c) The Department shall disapprove a proposed Coal Combustion Residuals Surface
- 46 Impoundment Closure Plan unless the Department finds that the Closure Plan is protective of
- 47 public health, safety, and welfare; the environment; and natural resources and otherwise complies
- 48 with the requirements of this Part. The Department shall provide specific findings to support its
- 49 decision to approve or disapprove a proposed Closure Plan. If the Department disapproves a
- 50 proposed Closure Plan, the person who submitted the Closure Plan may seek review as provided
- 51 in Article 3 of Chapter 150B of the General Statutes. If the Department fails to approve or

- 1 residuals are to be left in the impoundment, the owner must provide an
2 estimate of the volume of coal combustion residuals remaining.
- 3 j. A list of all permits that will need to be acquired or modified to
4 complete closure activities.
- 5 k. A description of the plan for post-closure monitoring and care for an
6 impoundment for a minimum of 30 years. The length of the post-closure
7 care period may be (i) proposed to be decreased or the frequency and
8 parameter list modified if the owner demonstrates that the reduced
9 period or modifications are sufficient to protect public health, safety,
10 and welfare; the environment; and natural resources and (ii) increased
11 by the Department at the end of the post-closure monitoring and care
12 period if there are statistically significant increasing groundwater
13 quality trends or if contaminant concentrations have not decreased to a
14 level protective of public health, safety, and welfare; the environment;
15 and natural resources. If the owner determines that the post-closure care
16 monitoring and care period is no longer needed and the Department
17 agrees, the owner shall provide a certification, signed and sealed by a
18 professional engineer, verifying that post-closure monitoring and care
19 has been completed in accordance with the post-closure plan. If required
20 by Chapter 89C of the General Statutes, the proposed plan for
21 post-closure monitoring and care should be signed and sealed by a
22 professional engineer. The plan shall include, at a minimum, all of the
23 following:
- 24 1. A demonstration of the long-term control of all leachate,
25 affected groundwater, and stormwater.
- 26 2. A description of a groundwater monitoring program that
27 includes (i) post-closure groundwater monitoring, including
28 parameters to be sampled and sampling schedules; (ii) any
29 additional monitoring well installations, including a map with
30 the proposed locations and well construction details; and (iii) the
31 actions proposed to mitigate statistically significant increasing
32 groundwater quality trends.
- 33 l. An estimate of the milestone dates for all activities related to closure
34 and post-closure.
- 35 m. Projected costs of assessment, corrective action, closure, and
36 post-closure care for each coal combustion residuals surface
37 impoundment.
- 38 n. A description of the anticipated future use of the site and the necessity
39 for the implementation of institutional controls following closure,
40 including property use restrictions, and requirements for recordation of
41 notices documenting the presence of contamination, if applicable, or
42 historical site use.
- 43 (b) The Department shall review a proposed Coal Combustion Residuals Surface
44 Impoundment Closure Plan for consistency with the minimum requirements set forth in subsection
45 (a) of this section and whether the proposed Closure Plan is protective of public health, safety, and
46 welfare; the environment; and natural resources and otherwise complies with the requirements of
47 this Part. Prior to issuing a decision on a proposed Closure Plan, the Department shall provide for
48 public participation on the proposed Closure Plan as follows:
- 49 (1) The Department shall make copies of the proposed Closure Plan available for
50 inspection as follows:

- 1 for the substance established by Subchapter L of Chapter 2 of
2 Title 15A of the North Carolina Administrative Code.
- 3 2. Predictions that include the effects on the groundwater chemistry
4 and should describe migration, concentration, mobilization, and
5 fate for substances with concentrations determined to be in
6 excess of the groundwater quality standards for the substance
7 established by Subchapter L of Chapter 2 of Title 15A of the
8 North Carolina Administrative Code pre- and post-closure,
9 including the effects on and from potential receptors.
- 10 3. A description of the groundwater trend analysis methods used to
11 demonstrate compliance with groundwater quality standards for
12 the substance established by Subchapter L of Chapter 2 of Title
13 15A of the North Carolina Administrative Code and
14 requirements for corrective action of groundwater contamination
15 established by Subchapter L of Chapter 2 of Title 15A of the
16 North Carolina Administrative Code.
- 17 e. A description of any plans for beneficial use of the coal combustion
18 residuals in compliance with the requirements of Section .1700 of
19 Subchapter B of Chapter 13 of Title 15A of the North Carolina
20 Administrative Code (Requirements for Beneficial Use of Coal
21 Combustion By-Products) and Section .1205 of Subchapter T of
22 Chapter 2 of Title 15A of the North Carolina Administrative Code (Coal
23 Combustion Products Management).
- 24 f. All engineering drawings, schematics, and specifications for the
25 proposed Closure Plan. If required by Chapter 89C of the General
26 Statutes, engineering design documents should be prepared, signed, and
27 sealed by a professional engineer.
- 28 g. A description of the construction quality assurance and quality control
29 program to be implemented in conjunction with the Closure Plan,
30 including the responsibilities and authorities for monitoring and testing
31 activities, sampling strategies, and reporting requirements.
- 32 h. A description of the provisions for disposal of wastewater and
33 management of stormwater and the plan for obtaining all required
34 permits.
- 35 i. A description of the provisions for the final disposition of the coal
36 combustion residuals. If the coal combustion residuals are to be
37 removed, the owner must identify (i) the location and permit number for
38 the coal combustion residuals landfills, industrial landfills, or municipal
39 solid waste landfills in which the coal combustion residuals will be
40 disposed and (ii) in the case where the coal combustion residuals are
41 planned for beneficial use, the location and manner in which the
42 residuals will be temporarily stored. If the coal combustion residuals are
43 to be left in the impoundment, the owner must (i) in the case of closure
44 pursuant to sub-subdivision (a)(1)a. of this section, provide a description
45 of how the ash will be stabilized prior to completion of closure in
46 accordance with closure and post-closure requirements established by
47 Section .1627 of Subchapter B of Chapter 13 of Title 15A of the North
48 Carolina Administrative Code and (ii) in the case of closure pursuant to
49 sub-subdivision (a)(1)b. of this section, provide a description of how the
50 ash will be stabilized pre- and post-closure. If the coal combustion

2. A description of the stratigraphy of the geologic units underlying each coal combustion residuals surface impoundment located on the site.
 3. The saturated hydraulic conductivity for (i) the coal combustion residuals within any coal combustion residuals surface impoundment located on the site and (ii) the saturated hydraulic conductivity of any existing liner installed at an impoundment, if any.
 4. The geotechnical properties for (i) the coal combustion residuals within any coal combustion residuals surface impoundment located on the site, (ii) the geotechnical properties of any existing liner installed at an impoundment, if any, and (iii) the uppermost identified stratigraphic unit underlying the impoundment, including the soil classification based upon the Unified Soil Classification System, in-place moisture content, particle size distribution, Atterberg limits, specific gravity, effective friction angle, maximum dry density, optimum moisture content, and permeability.
 5. A chemical analysis of the coal combustion residuals surface impoundment, including water, coal combustion residuals, and coal combustion residuals-affected soil.
 6. Identification of all substances with concentrations determined to be in excess of the groundwater quality standards for the substance established by Subchapter L of Chapter 2 of Title 15A of the North Carolina Administrative Code, including all laboratory results for these analyses.
 7. Summary tables of historical records of groundwater sampling results.
 8. A map that illustrates the potentiometric contours and flow directions for all identified aquifers underlying impoundments (shallow, intermediate, and deep) and the horizontal extent of areas where groundwater quality standards established by Subchapter L of Chapter 2 of Title 15A of the North Carolina Administrative Code for a substance are exceeded.
 9. Cross-sections that illustrate the following: the vertical and horizontal extent of the coal combustion residuals within an impoundment; stratigraphy of the geologic units underlying an impoundment; and the vertical extent of areas where groundwater quality standards established by Subchapter L of Chapter 2 of Title 15A of the North Carolina Administrative Code for a substance are exceeded.
- d. The results of groundwater modeling of the site that shall include, at a minimum, all of the following:
1. An account of the design of the proposed Closure Plan that is based on the site hydrogeologic conceptual model developed and includes (i) predictions on post-closure groundwater elevations and groundwater flow directions and velocities, including the effects on and from the potential receptors and (ii) predictions at the compliance boundary for substances with concentrations determined to be in excess of the groundwater quality standards

261, "Hazardous and Solid Waste Management System; Disposal of Coal Combustion Residuals From Electric Utilities."

- (4) Closure Plans for all impoundments shall include all of the following:
- a. Facility and coal combustion residuals surface impoundment description. – A description of the operation of the site that shall include, at a minimum, all of the following:
 1. Site history and history of site operations, including details on the manner in which coal combustion residuals have been stored and disposed of historically.
 2. Estimated volume of material contained in the impoundment.
 3. Analysis of the structural integrity of dikes or dams associated with impoundment.
 4. All sources of discharge into the impoundment, including volume and characteristics of each discharge.
 5. Whether the impoundment is lined, and, if so, the composition thereof.
 6. A summary of all information available concerning the impoundment as a result of inspections and monitoring conducted pursuant to this Part and otherwise available.
 - b. Site maps, which, at a minimum, illustrate all of the following:
 1. All structures associated with the operation of any coal combustion residuals surface impoundment located on the site. For purposes of this sub-subdivision, the term "site" means the land or waters within the property boundary of the applicable electric generating station.
 2. All current and former coal combustion residuals disposal and storage areas on the site, including details concerning coal combustion residuals produced historically by the electric generating station and disposed of through transfer to structural fills.
 3. The property boundary for the applicable site, including established compliance boundaries within the site.
 4. All potential receptors within 2,640 feet from established compliance boundaries.
 5. Topographic contour intervals of the site shall be selected to enable an accurate representation of site features and terrain and in most cases should be less than 20-foot intervals.
 6. Locations of all sanitary landfills permitted pursuant to this Article on the site that are actively receiving waste or are closed, as well as the established compliance boundaries and components of associated groundwater and surface water monitoring systems.
 7. All existing and proposed groundwater monitoring wells associated with any coal combustion residuals surface impoundment on the site.
 8. All existing and proposed surface water sample collection locations associated with any coal combustion residuals surface impoundment on the site.
 - c. The results of a hydrogeologic, geologic, and geotechnical investigation of the site, including, at a minimum, all of the following:
 1. A description of the hydrogeology and geology of the site.

groundwater table shall be dewatered; (ii) impoundments located in whole or in part beneath the seasonal high groundwater table shall be dewatered to the maximum extent practicable; and (iii) at the election of the Department, the owner of an impoundment shall either:

a. Close in any manner allowed pursuant to subdivision (1) of this ~~subsection~~ subsection;

b. Comply with the closure and post-closure requirements established by Section .1627 of Subchapter B of Chapter 13 of Title 15A of the North Carolina Administrative Code, except that such impoundments shall not be required to install and maintain a leachate collection system. Specifically, the owner of an impoundment shall install and maintain a cap system that is designed to minimize infiltration and erosion in conformance with the requirements of Section .1624 of Subchapter B of Chapter 13 of Title 15A of the North Carolina Administrative Code, and, at a minimum, shall be designed and constructed to (i) have a permeability no greater than 1×10^{-5} centimeters per second; (ii) minimize infiltration by the use of a low-permeability barrier that contains a minimum 18 inches of earthen material; and (iii) minimize erosion of the cap system and protect the low-permeability barrier from root penetration by use of an erosion layer that contains a minimum of six inches of earthen material that is capable of sustaining native plant growth. In addition, the owner of an impoundment shall (i) install and maintain a groundwater monitoring system; (ii) establish financial assurance that will ensure that sufficient funds are available for closure pursuant to this subdivision, post-closure maintenance and monitoring, any corrective action that the Department may require, and satisfy any potential liability for sudden and nonsudden accidental occurrences arising from the impoundment and subsequent costs incurred by the Department in response to an incident, even if the owner becomes insolvent or ceases to reside, be incorporated, do business, or maintain assets in the State; and (iii) conduct post-closure care for a period of 30 years, which period may be increased by the Department upon a determination that a longer period is necessary to protect public health, safety, welfare; the environment; and natural resources, or decreased upon a determination that a shorter period is sufficient to protect public health, safety, welfare; the environment; and natural resources. The Department may require implementation of any other measure it deems necessary to protect public health, safety, and welfare; the environment; and natural resources, including imposition of institutional controls that are sufficient to protect public health, safety, and welfare; the environment; and natural resources. The Department may not approve closure for an impoundment pursuant to sub-subdivision b. of subdivision (3) of this subsection unless the Department finds that the proposed closure plan includes design measures to prevent, upon the plan's full implementation, post-closure exceedances of groundwater quality standards beyond the compliance boundary that are attributable to constituents associated with the presence of the ~~impoundment~~ impoundment; or

c. Comply with the closure requirements established by the United States Environmental Protection Agency as provided in 40 CFR Parts 257 and

- consisting of high density polyethylene (HDPE) shall be at least 60 ml thick. The landfill shall otherwise comply with the construction requirements established by Section .1624 of Subchapter B of Chapter 13 of Title 15A of the North Carolina Administrative Code, and the siting and design requirements for disposal sites established by Section .0503 of Subchapter B of Chapter 13 of Title 15A of the North Carolina Administrative Code, except with respect to those requirements that pertain to buffers. In lieu of the buffer requirement established by Section .0503(f)(2)(iii) of Subchapter B of Chapter 13 of Title 15A of the North Carolina Administrative Code, the owner of the impoundment shall establish and maintain a 300-foot buffer between surface waters and disposal areas. After the temporarily displaced coal combustion residuals have been returned for disposal in the industrial landfill constructed pursuant to the requirements of this sub-subdivision, the owner of the landfill shall comply with the closure and post-closure requirements established by Section .1627 of Subchapter B of Chapter 13 of Title 15A of the North Carolina Administrative Code. A landfill constructed pursuant to this sub-subdivision shall otherwise be subject to all applicable requirements of this Chapter and rules adopted thereunder. Prior to closure, the Department may allow the disposal of coal combustion residuals, in addition to those originally contained in the impoundment, to the landfill constructed pursuant to this sub-subdivision, if the Department determines that the site is suitable for additional capacity and that disposal of additional coal combustion residuals will not pose an unacceptable risk to public health, safety, welfare; the environment; and natural resources.
- b. Remove all coal combustion residuals from the impoundment, return the former impoundment to a nonerosive and stable condition and (i) transfer the coal combustion residuals for disposal in a coal combustion residuals landfill, industrial landfill, or municipal solid waste landfill or (ii) use the coal combustion products in a structural fill or other beneficial use as allowed by law. The use of coal combustion products (i) as structural fill shall be conducted in accordance with the requirements of Subpart 3 of this Part and (ii) for other beneficial uses shall be conducted in accordance with the requirements of Section .1700 of Subchapter B of Chapter 13 of Title 15A of the North Carolina Administrative Code (Requirements for Beneficial Use of Coal Combustion By-Products) and Section .1205 of Subchapter T of Chapter 2 of Title 15A of the North Carolina Administrative Code (Coal Combustion Products Management).
- (2) Intermediate-risk impoundments shall be closed as soon as practicable, but no later than December 31, 2024. A proposed closure plan for such impoundments must be submitted as soon as practicable, but no later than December 31, ~~2017-2019~~. At a minimum, such impoundments shall be dewatered, and the owner of an impoundment shall close the impoundment in any manner allowed pursuant to subdivision (1) of this ~~subsection~~subsection, or, if applicable, as provided in G.S. 130A-309.216.
- (3) Low-risk impoundments shall be closed as soon as practicable, but no later than December 31, 2029. A proposed closure plan for such impoundments must be submitted as soon as practicable, but no later than December 31, ~~2018-2019~~. At a minimum, (i) impoundments located in whole above the seasonal high

(1) The Department shall classify an impoundment as low-risk if the impoundment owner satisfies both of the following criteria:

- a. Has established permanent water supplies as required for the impoundment pursuant to G.S. 130A-309.211(c1).
- b. Has rectified any deficiencies identified by, and otherwise complied with the requirements of, any dam safety order issued by the Environmental Management Commission for the impoundment pursuant to G.S. 143-215.32. No later than July 1, 2017, the Department shall conduct the annual inspection of each dam associated with a coal combustion residuals surface impoundment required for that year, to detect any deficiencies and to ascertain, at a minimum, whether the dam is sufficiently strong, maintained in good repair and operating condition, does not pose a danger to life or property, and satisfies minimum streamflow requirements. The Department shall issue written findings of fact for each inspection and present such findings to the Environmental Management Commission. If the Department detects any deficiencies, the Commission shall issue an order directing the owner of the dam to take action as may be deemed necessary by the Commission within a time limited by the order, but not later than 90 days after issuance of the order.

(2) All other impoundments shall be classified as intermediate-risk.

(e) Parties aggrieved by a final decision of the Department issued pursuant to subsection (d) of this section may appeal the decision as provided under Article 3 of Chapter 150B of the General Statutes.

§ 130A-309.214. Closure of coal combustion residuals surface impoundments.

(a) An owner of a coal combustion residuals surface impoundment shall submit a proposed Coal Combustion Residuals Surface Impoundment Closure Plan for the Department's approval. If corrective action to restore groundwater has not been completed pursuant to the requirements of G.S. 130A-309.211(b), the proposed closure plan shall include provisions for completion of activities to restore groundwater in conformance with the requirements of Subchapter L of Chapter 2 of Title 15A of the North Carolina Administrative Code. In addition, the following requirements, at a minimum, shall apply to such plans:

(1) High-risk impoundments shall be closed as soon as practicable, but no later than December 31, 2019. A proposed closure plan for such impoundments must be submitted as soon as practicable, but no later than December 31, 2016. At a minimum, (i) impoundments located in whole above the seasonal high groundwater table shall be dewatered; (ii) impoundments located in whole or in part beneath the seasonal high groundwater table shall be dewatered to the maximum extent practicable; and (iii) the owner of an impoundment shall either:

- a. Convert the coal combustion residuals impoundment to an industrial landfill by removing all coal combustion residuals and contaminated soil from the impoundment temporarily, safely storing the residuals on-site, and complying with the requirements for such landfills established by this Article and rules adopted thereunder. At a minimum, the landfills shall have a design with a leachate collection system, a closure cap system, and a composite liner system consisting of two components: the upper component shall consist of a minimum 30-mil flexible membrane (FML), and the lower components shall consist of at least a two-foot layer of compacted soil with a hydraulic conductivity of no more than 1×10^{-7} centimeters per second. FML components

(c) Notwithstanding any deadline for closure provided by G.S. 130A-309.214, any impoundment classified as intermediate- or low-risk that is located at a site at which an ash beneficiation project is installed, operating, and processing at least three hundred thousand (300,000) tons of ash annually from the impoundment, shall be closed no later than December 31, 2029.

§ 130A-309.217: Reserved for future codification purposes.

..."

SECTION 2. G.S. 62-302.1 reads as rewritten:

"§ 62-302.1. **Regulatory fee for combustion residuals surface impoundments.**

(a) **Fee Imposed.** – Each public utility with a coal combustion residuals surface impoundment shall pay a regulatory fee for the purpose of defraying the costs of oversight of coal combustion residuals. The fee is in addition to the fee imposed under G.S. 62-302. The fees collected under this section shall only be used to pay the expenses of the ~~Coal Ash Management Commission and the~~ Department of Environmental Quality in providing oversight of coal combustion residuals.

(b) **Rate.** – The combustion residuals surface impoundment fee shall be twenty-two thousandths of one percent (0.022%) ~~three hundredths of one percent (0.03%)~~ of the North Carolina jurisdictional revenues of each public utility with a coal combustion residuals surface impoundment. For the purposes of this section, the term "North Carolina jurisdictional revenues" has the same meaning as in G.S. 62-302.

(c) **When Due.** – The fee shall be paid in quarterly installments. The fee is payable to the ~~Coal Ash Management Commission~~ Department of Environmental Quality on or before the 15th of the second month following the end of each quarter. Each public utility subject to this fee shall, on or before the date the fee is due for each quarter, prepare and render a report on a form prescribed by the ~~Coal Ash Management Commission.~~ Department of Environmental Quality. The report shall state the public utility's total North Carolina jurisdictional revenues for the preceding quarter and shall be accompanied by any supporting documentation that the ~~Coal Ash Management Commission~~ Department of Environmental Quality may by rule require. Receipts shall be reported on an accrual basis.

(d) **Use of Proceeds.** – A special fund in the ~~Department of Environmental Quality Office of State Treasurer and the Coal Ash Management Commission~~ is created. The fees collected pursuant to this section ~~and all other funds received by the Coal Ash Management Commission~~ shall be deposited in the Coal Combustion Residuals Management Fund. The Fund shall be placed in an interest-bearing account, and any interest or other income derived from the Fund shall be credited to the Fund. Subject to appropriation by the General Assembly, ~~twenty-six and one-half percent (26.5%) of the moneys in the Fund shall be used by the Coal Ash Management Commission and the remainder~~ one-hundred percent (100%) shall be used by the Department of Environmental Quality. ~~The Coal Ash Management Commission shall be subject to the provisions of the State Budget Act, except that no unexpended surplus of the Coal Combustion Residuals Management Fund shall revert to the General Fund.~~ All funds credited to the Fund shall be used only to pay the expenses of the ~~Coal Ash Management Commission and the~~ Department of Environmental Quality in providing oversight of coal combustion residuals.

(e) **Recovery of Fee.** – The North Carolina Utilities Commission shall not allow an electric public utility to recover this fee from the retail electric customers of the State."

SECTION 3.(a) Notwithstanding G.S. 130A-309.213 or G.S. 130A-309.214, as amended by Section 1 of this act, and except as otherwise preempted by the requirements of federal law, the following coal combustion residuals surface impoundments shall be deemed intermediate-risk and, as soon as practicable, but no later than August 1, 2028, shall be closed in conformance with Section 3(b) of this act:

- (1) Coal combustion residuals surface impoundments located at the H.F. Lee Steam Station, owned and operated by Duke Energy Progress, and located in Wayne County.
- (2) Coal combustion residuals surface impoundments located at the Cape Fear Steam Station, owned and operated by Duke Energy Progress, and located in Chatham County.
- (3) Coal combustion residuals surface impoundments located at the Weatherspoon Steam Station, owned and operated by Duke Energy Progress, and located in New Hanover County.

SECTION 3.(b) The impoundments identified in subsection (a) of this section shall be closed as follows:

- (1) Impoundments located in whole above the seasonal high groundwater table shall be dewatered. Impoundments located in whole or in part beneath the seasonal high groundwater table shall be dewatered to the maximum extent practicable.
- (2) All coal combustion residuals shall be removed from the impoundments and transferred for (i) disposal in a coal combustion residuals landfill, industrial landfill, or municipal solid waste landfill or (ii) use in a structural fill or other beneficial use as allowed by law. The use of coal combustion products (i) as structural fill shall be conducted in accordance with the requirements of Subpart 3 of Part 21 of Article 9 of the General Statutes, and (ii) for other beneficial uses shall be conducted in accordance with the requirements of Section .1700 of Subchapter B of Chapter 13 of Title 15A of the North Carolina Administrative Code (Requirements for Beneficial Use of Coal Combustion By-Products) and Section .1200 of Subchapter T of Chapter 2 of Title 15A of the North Carolina Administrative Code (Coal Combustion Products Management), as applicable.
- (3) If restoration of groundwater quality is degraded as a result of the impoundment, corrective action to restore groundwater quality shall be implemented by the owner or operator as provided in G.S. 130A-309.211.

SECTION 4. There is appropriated a sum of up to four hundred fifty thousand dollars (\$450,000) to the State Water Infrastructure Authority from the Coal Combustion Residuals Management Fund cash balance on June 30, 2016, to fund grants to local governments operating public water supplies in areas surrounding coal combustion residuals impoundments to provide moneys for additional staff for permitting and construction activities as may be needed to facilitate establishment of permanent water supplies to households eligible for connection to public water supplies pursuant to G.S. 130A-309.211(c1).

SECTION 5.(a) Section 3(e) of S.L. 2014-122 is repealed.

SECTION 5.(b) Section 4(e) of S.L. 2014-122 reads as rewritten:

"SECTION 4.(e) All electric generating facilities owned by a public utility that produce coal combustion residuals and coal combustion products shall issue a request for proposals on or before December 31, 2014, for (i) the conduct of a market analysis for the concrete industry and other industries that might beneficially use coal combustion residuals and coal combustion products; (ii) the study of the feasibility and advisability of installation of technology to convert existing and newly generated coal combustion residuals to commercial-grade coal combustion products suitable for use in the concrete industry and other industries that might beneficially use coal combustion residuals; and (iii) an examination of all innovative technologies that might be applied to diminish, recycle or reuse, or mitigate the impact of existing and newly generated coal combustion residuals. All electric generating facilities shall present the materials and information received in response to a request for proposals issued pursuant to this section and an assessment of the materials and information, including a forecast of specific actions to be taken in response to the materials and information received, to the

Environmental Management Commission ~~and the Coal Ash Management Commission~~ on or before August 1, 2016."

SECTION 6.(a) G.S. 143B-291 reads as rewritten:

"§ 143B-291. North Carolina Mining Commission – members; selection; removal; compensation; quorum; services.

(a) Repealed by 2014-4, s. 5(a), effective July 31, 2015.

(a1) Members, Selection. – The North Carolina Mining Commission shall consist of eight members appointed as follows:

(1) One member who is the chair of the North Carolina State University Minerals Research Laboratory Advisory ~~Committee~~Committee, ex officio and nonvoting.

(2) The State Geologist, ex officio and nonvoting.

(3) One member appointed by the Governor subject to confirmation in conformance with Article III, Section 5(8) of the Constitution of North Carolina, who is a representative of the mining industry.

(4) One member appointed by the Governor subject to confirmation in conformance with Article III, Section 5(8) of the Constitution of North Carolina, who is a representative of the mining industry.

(5) One member appointed by the ~~General Assembly upon recommendation of the Speaker of the House of Representatives~~ Governor subject to confirmation in conformance with Article III, Section 5(8) of the Constitution of North Carolina, who is a representative of the mining industry.

(6) One member appointed by the ~~General Assembly upon recommendation of the President Pro Tempore of the Senate~~ Governor subject to confirmation in conformance with Article III, Section 5(8) of the Constitution of North Carolina, who is a representative of the mining industry.

(7) One member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives in conformance with G.S. 120-121, who is a ~~member of~~ representative of a nongovernmental conservation ~~interests~~interest.

(8) One member appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate in conformance with G.S. 120-121, who is a ~~member of~~ representative of a nongovernmental conservation ~~interests~~interest.

(a2) Process for Appointments by the Governor. – The Governor shall transmit to the presiding officers of the Senate and the House of Representatives, within four weeks of the convening of the session of the General Assembly in the year for which the terms in question are to expire, the names of the persons to be appointed by the Governor and submitted to the General Assembly for confirmation by joint resolution. If an appointment is required pursuant to this subsection when the General Assembly is not in session, the member may be appointed and serve on an interim basis pending confirmation by the General Assembly. For the purpose of this subsection, the General Assembly is not in session only (i) prior to convening of the regular session, (ii) during any adjournment of the regular session for more than 10 days, or (iii) after sine die adjournment of the regular session.

(b) Terms. – The term of office of a member of the Commission is ~~six years~~four years, beginning effective January 1 of the year of appointment and terminating on December 31 of the year of expiration. At the expiration of each member's term, the appointing authority shall replace the member with a new member of like qualifications for a term of ~~six~~four years. ~~The term of the member appointed under subdivision (5) of subsection (a1) of this section shall expire on June 30 of years that precede by one year those years that are evenly divisible by six. The term of members appointed under subdivisions (3) and (6) of subsection (a1) of this section shall expire on June 30~~

of years that follow by one year those years that are evenly divisible by six. The term of members appointed under subdivisions (4) and (7) of subsection (a1) of this section shall expire on June 30 of years that follow by three years those years that are evenly divisible by six. Upon the expiration of a six year term, a member may continue to serve until a successor is appointed and duly qualified as provided by G.S. 128-7. In order to establish regularly overlapping terms, initial appointments shall be made effective June 1, 2016, or as soon as feasible thereafter, and expire as follows:

(1) The initial appointments made by the Governor:

- a. Pursuant to subdivision (a1)(3) of this section shall expire December 31, 2020.
- b. Pursuant to subdivision (a1)(4) of this section shall expire December 31, 2020.
- c. Pursuant to subdivision (a1)(5) of this section shall expire December 31, 2019.
- d. Pursuant to subdivision (a1)(6) of this section shall expire December 31, 2019.

(2) The initial appointment made by the General Assembly upon recommendation of the Speaker of the House of Representatives pursuant to subdivision (a1)(7) of this section shall expire December 31, 2018.

(3) The initial appointment made by the General Assembly upon recommendation of the President Pro Tempore of the Senate pursuant to subdivision (a1)(8) of this section shall expire December 31, 2018.

(c) Vacancies. – In case of death, incapacity, resignation, or vacancy for any other reason in the office of any member appointed by the Governor, prior to the expiration of the member's term of office, the name of the successor shall be submitted by the Governor within four weeks after the vacancy arises to the General Assembly for confirmation by the General Assembly. In case of death, incapacity, resignation, or vacancy for any other reason in the office of any member appointed by the General Assembly, vacancies in those appointments shall be filled in accordance with G.S. 120-122. If a vacancy arises or exists when the General Assembly is not in session, and the appointment is deemed urgent by the Governor, the member may be appointed by the Governor and serve on an interim basis pending confirmation or appointment by the General Assembly, as applicable. An appointment to fill a vacancy shall be for the unexpired balance of the term.

(d) Removal. – The Governor may remove any member of the Commission from office for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13. G.S. 143B-13, or for good cause.

(e) Compensation. – The members of the Commission shall receive per diem and necessary traveling and subsistence expenses in accordance with the provisions of G.S. 138-5.

(f) Quorum. – A majority of the Commission shall constitute a quorum for the transaction of business.

(g) Staff. – All clerical and other services required by the Commission shall be supplied by the Secretary of Environmental Quality. Quality. The Commission staff shall be housed in the Department of Environmental Quality, and supervised by the Secretary of Environmental Quality."

SECTION 6.(b) Notwithstanding the provisions of G.S. 143B-291(a2) and G.S. 143B-291(b), as enacted and amended by Section 6(a) of this act, initial appointments made by the Governor to the Commission shall not require confirmation by the General Assembly.

SECTION 7.(a) G.S. 143B-293.2 reads as rewritten:

"§ 143B-293.2. North Carolina Oil and Gas Commission – members; selection; removal; compensation; quorum; services.

- (a) Repealed by Session Laws 2014-4, s. 4(a), effective July 31, 2015.

1 (a1) Members Selection. – The North Carolina Oil and Gas Commission shall consist of
2 nine members appointed as follows:

- 3 (1) One appointed by the ~~General Assembly upon recommendation of the Speaker~~
4 ~~of the House of Representatives~~ Governor subject to confirmation in
5 conformance with Article III, Section 5(8) of the Constitution of North
6 Carolina, who, at the time of initial appointment, is an elected official of a
7 municipal government located in a region of North Carolina that has oil and gas
8 potential. A person serving in this seat may complete a term on the Commission
9 even if the person is no longer serving as an elected official of a municipal
10 government but may not be reappointed to a subsequent term.
- 11 (2) One appointed by the General Assembly upon recommendation of the Speaker
12 of the House of Representatives in conformance with G.S. 120-121, who shall
13 be a geologist with experience in oil and gas exploration and development.
- 14 (3) One appointed by the General Assembly upon recommendation of the Speaker
15 of the House of Representatives in conformance with G.S. 120-121, who is a
16 ~~member representative~~ of a nongovernmental conservation interest.
- 17 (4) One appointed by the ~~General Assembly upon recommendation of the President~~
18 ~~Pro Tempore of the Senate~~ Governor subject to confirmation in conformance
19 with Article III, Section 5(8) of the Constitution of North Carolina, who, at the
20 time of initial appointment, is a member of a county board of commissioners of
21 a county located in a region of North Carolina that has oil and gas potential. A
22 person serving in this seat may complete a term on the Commission even if the
23 person is no longer serving as county commissioner but may not be reappointed
24 to a subsequent term.
- 25 (5) One appointed by the General Assembly upon recommendation of the President
26 Pro Tempore of the Senate in conformance with G.S. 120-121, who is a
27 ~~member representative~~ of a nongovernmental conservation interest.
- 28 (6) One appointed by the General Assembly upon recommendation of the President
29 Pro Tempore of the Senate in conformance with G.S. 120-121, who shall be an
30 engineer with experience in oil and gas exploration and development.
- 31 (7) One appointed by the Governor subject to confirmation in conformance with
32 Article III, Section 5(8) of the Constitution of North Carolina, who shall be a
33 representative of a publicly traded natural gas company.
- 34 (8) One appointed by the Governor subject to confirmation in conformance with
35 Article III, Section 5(8) of the Constitution of North Carolina, who shall be a
36 licensed attorney with experience in legal matters associated with oil and gas
37 exploration and development.
- 38 (9) One appointed by the Governor subject to confirmation in conformance with
39 Article III, Section 5(8) of the Constitution of North Carolina, with experience
40 in matters related to public health.

41 (a2) Process for Appointments by the Governor. – The Governor shall transmit to the
42 presiding officers of the Senate and the House of Representatives, within four weeks of the
43 convening of the session of the General Assembly in the year for which the terms in question are
44 to expire, the names of the persons to be appointed by the Governor and submitted to the General
45 Assembly for confirmation by joint resolution. If an appointment is required pursuant to this
46 subsection when the General Assembly is not in session, the member may be appointed and serve
47 on an interim basis pending confirmation by the General Assembly. For the purpose of this
48 subsection, the General Assembly is not in session only (i) prior to convening of the regular
49 session, (ii) during any adjournment of the regular session for more than 10 days, or (iii) after sine
50 die adjournment of the regular session.

(b) Terms. – The term of office of members of the Commission is ~~three years~~ four years, beginning effective January 1 of the year of appointment and terminating on December 31 of the year of expiration. A member may be reappointed to no more than two consecutive ~~three-year~~ four-year terms. The term of a member who no longer meets the qualifications of their respective appointment, as set forth in subsection (a)(1) of this section, shall terminate but the member may continue to serve until a new member who meets the qualifications is appointed. ~~The terms of members appointed under subdivisions (1), (4), and (7) of subsection (a1) of this section shall expire on June 30 of years evenly divisible by three. The terms of members appointed under subdivisions (2), (5), and (8) of subsection (a1) of this section shall expire on June 30 of years that precede by one year those years that are evenly divisible by three. The terms of members appointed under subdivisions (3), (6), and (9) of subsection (a1) of this section shall expire on June 30 of years that follow by one year those years that are evenly divisible by three. In order to establish regularly overlapping terms, initial appointments shall be made effective June 1, 2016, or as soon as feasible thereafter, and expire as follows:~~

(1) The initial appointments made by the Governor:

- a. Pursuant to subdivision (a1)(1) of this section shall expire December 31, 2020.
- b. Pursuant to subdivision (a1)(4) of this section shall expire December 31, 2020.
- c. Pursuant to subdivision (a1)(7) of this section shall expire December 31, 2020.
- d. Pursuant to subdivision (a1)(8) of this section shall expire December 31, 2019.
- e. Pursuant to subdivision (a1)(9) of this section shall expire December 31, 2019.

(2) The initial appointments made by the General Assembly upon recommendation of the Speaker of the House of Representatives:

- a. Pursuant to subdivision (a1)(2) of this section shall expire December 31, 2018.
- b. Pursuant to subdivision (a1)(3) of this section shall expire December 31, 2019.

(3) The initial appointments made by the General Assembly upon recommendation of the President Pro Tempore of the Senate:

- a. Pursuant to subdivision (a1)(5) of this section shall expire December 31, 2018.
- b. Pursuant to subdivision (a1)(6) of this section shall expire December 31, 2019.

(c) ~~Vacancies; Removal from Office.~~ Vacancies. – In case of death, incapacity, resignation, or vacancy for any other reason in the office of any member appointed by the Governor, prior to the expiration of the member's term of office, the name of the successor shall be submitted by the Governor within four weeks after the vacancy arises to the General Assembly for confirmation by the General Assembly. In case of death, incapacity, resignation, or vacancy for any other reason in the office of any member appointed by the General Assembly, vacancies in those appointments shall be filled in conformance with G.S. 120-122. If a vacancy arises or exists when the General Assembly is not in session, and the appointment is deemed urgent by the Governor, the member may be appointed by the Governor and serve on an interim basis pending confirmation or appointment by the General Assembly, as applicable. An appointment to fill a vacancy shall be for the unexpired balance of the term.

(c1) Removal. –

(1) ~~Any appointment by the Governor to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired~~

1 ~~term.~~ The Governor shall have the power to remove any member of the Commission from office
2 for misfeasance, malfeasance, or nonfeasance in accordance with the provisions of G.S. 143B-13
3 of the Executive Organization Act of ~~1973~~, 1973, or for good cause.

4 ~~(2) Members appointed by the President Pro Tempore of the Senate and the Speaker of the~~
5 ~~House of Representatives shall be made in accordance with G.S. 120-121, and vacancies in those~~
6 ~~appointments shall be filled in accordance with G.S. 120-122. In accordance with Section 10 of~~
7 ~~Article VI of the North Carolina Constitution, a member may continue to serve until a successor is~~
8 ~~duly appointed.~~

9 (d) Compensation. – The members of the Commission shall receive per diem and
10 necessary traveling and subsistence expenses in accordance with the provisions of G.S. 138-5.

11 (e) Quorum. – A majority of the Commission shall constitute a quorum for the transaction
12 of business.

13 (f) Staff. – All staff support required by the Commission shall be supplied by the Division
14 of Energy, Mineral, and Land Resources and the North Carolina Geological ~~Survey~~, Survey, and
15 supervised by the Secretary of Environmental Quality.

16 (g) Committees. – In addition to the Committee on Civil Penalty Remissions required to be
17 established under G.S. 143B-293.6, the chair may establish other committees from members of the
18 Commission to address specific issues as appropriate. No member of a committee may hear or
19 vote on any matter in which the member has an economic interest. A majority of a committee shall
20 constitute a quorum for the transaction of business.

21 (h) Office May Be Held Concurrently With Others. – Membership on the Oil and Gas
22 Commission is hereby declared to be an office that may be held concurrently with other elective or
23 appointive offices in addition to the maximum number of offices permitted to be held by one
24 person under G.S. 128-1.1."

25 **SECTION 7.(b)** Notwithstanding the provisions of G.S. 143B-293.2(a1) and
26 G.S. 143B-293.2(b), as enacted and amended by Section 7(a) of this act, initial appointments made
27 by the Governor to the Commission shall not require confirmation by the General Assembly.

28 **SECTION 7.(c)** For purposes of the rules set forth in 15A NCAC 05H (Oil and Gas
29 Conservation Rules), modifications made to the Oil and Gas Commission under Section 7(a) of
30 this act shall, pursuant to G.S. 150B-21.7, be construed to (1) have repealed authority to adopt
31 such rules given to previously constituted commissions and (2) transferred the authority to adopt
32 such rules to the Oil and Gas Commission as modified by Section 7(b) of this act. Therefore,
33 pursuant to G.S. 150B-21.7, rules set forth in 15A NCAC 05H (Oil and Gas Conservation Rules)
34 shall be effective until the Oil and Gas Commission, as modified Section 7(a) of this act, amends
35 or repeals the rules.

36 **SECTION 8.** The provisions of this act shall be severable, and if any phrase, clause,
37 sentence, or provision is declared to be unconstitutional or otherwise invalid, the validity of the
38 remainder of this act shall not be affected thereby.

39 **SECTION 9.** Except as otherwise provided, this act is effective when it becomes law.
40 Requirements for establishment of a permanent alternative water supply under
41 G.S. 130A-309.211(c1), as enacted by Section 1 of this act, shall apply only to households with
42 drinking water supply wells in existence on the date this act becomes effective.





HOUSE BILL 630: Drinking Water Protect'n/Coal Ash Cleanup Act.

2016-2017 General Assembly

Committee: Senate Rules and Operations of the Senate
Introduced by:
Analysis of: PCS to First Edition
H630-PCS10571-R1-32

Date: June 28, 2016
Prepared by: Jennifer McGinnis
Staff Attorney

SUMMARY: *The Proposed Committee Substitute (PCS) for House Bill 630 would (1) repeal all provisions related to the Coal Ash Management Commission in the General Statutes; (2) require a coal combustion residuals impoundment owner to provide permanent alternative water supplies for residents in areas surrounding coal combustion residuals surface impoundments; (3) allow reconsideration of risk classifications for coal combustion residuals surface impoundments based on fulfillment of certain criteria; and (4) modify appointments and other provisions governing the Mining Commission and the Oil and Gas Commission.*

BILL ANALYSIS:

Section 1 of the PCS would make the following changes to the Coal Ash Management Act of 2014 (CAMA):

- Repeal the Coal Ash Management Commission, and transfer all of its responsibilities under the CAMA to the Department of Environmental Quality (DEQ).
- Require that the owner of a coal combustion residuals surface impoundment, as soon as practicable, but no later than October 15, 2018, establish permanent replacement water supplies for each household that has a drinking water supply well located: (i) within one-half mile radius from the established compliance boundary of an impoundment, and is not separated from the impoundment by the mainstem of a river, or other body of water that would prevent the migration of contaminants through groundwater from the impoundment to a well and (ii) in an area in which contamination resulting from constituents associated with the presence of an impoundment is expected to migrate, as demonstrated by groundwater modeling, and hydrogeologic, geologic, and geotechnical investigations of the site. Preference would be given to permanent replacement water supplies by connection to public water supplies, however, DEQ would be given authority to determine, after evaluation of information submitted by an impoundment owner, if connection to a public water supply for a particular household would be cost-prohibitive, and authorize installation of a filtration system instead. If installation of a filtration system were authorized, an impoundment owner would be responsible for ongoing periodic required maintenance of the filtration system. The provision would also allow, but not require, eligible households to opt for installation of a filtration system in lieu of connection to public water supply. An impoundment owner would be required to provide temporary water to the eligible households until a permanent water supply is established for each household. DEQ may grant an impoundment owner an extension of time, not to exceed one year, to establish permanent water supplies as required by this section, if DEQ determines that it is infeasible for the impoundment owner to establish a permanent water supply for a household by October 1,

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 630

Page 2

2018, based on limitations arising from local government resources, including limitations on water supply capacity and staffing limitations for permitting and construction activities.

- Would provide that classifications of impoundments previously issued by DEQ would be "preliminary," and the risk-criteria used to develop such classifications would be repealed. DEQ would then be required, upon expiration of the deadline for establishment of permanent water supplies, or any applicable extension granted, to issue a final classification for each impoundment as follows:
 - DEQ must classify an impoundment as low-risk if the impoundment owner satisfies both of the following criteria:
 - Has established permanent water supplies for the impoundment in accord with the requirements of the PCS.
 - Has rectified any deficiencies identified by, and otherwise complied with the requirements of, any dam safety order issued by the Environmental Management Commission (EMC) for the impoundment. In addition, the PCS would require DEQ, no later than July 1, 2018, to conduct an annual inspection of each dam associated with a coal combustion residuals surface impoundment required for that year, to detect any deficiencies and to ascertain, at a minimum, whether the dam is sufficiently strong, maintained in good repair and operating condition, does not pose a danger to life or property, and satisfies minimum streamflow requirements. DEQ must issue written findings of fact for each inspection and present such findings to the EMC. If DEQ detects any deficiencies, the EMC must issue an order directing the owner of the dam to take action as may be deemed necessary by the EMC within a time limited by the order, but not later than 90 days after issuance of the order.
 - All other impoundments not satisfying the aforementioned criteria would be deemed intermediate-risk.
- Would modify the possible closure options for impoundments classified as low-risk to include compliance with the closure requirements established by the United States Environmental Protection Agency as provided in 40 CFR Parts 257 and 261, "Hazardous and Solid Waste Management System; Disposal of Coal Combustion Residuals From Electric Utilities". The federal closure requirements, in short, require that closure must be completed: (1) by leaving the coal combustion residuals (CCRs or ash) in place and installing a final cover system (i.e., cap-in-place with requirements for groundwater monitoring, post-closure care, etc.), or through removal of the CCRs and decontamination of the CCR unit; and (2) within five years, with the possibility of one two-year extension for units smaller than 40 acres and five two-year extensions for units greater than 40 acres. Other options for closure under the CAMA would still include:
 - Compliance with closure options available for high- and intermediate-risk ponds, which require excavation of ash for beneficial use or disposal in a sanitary landfill.
 - Compliance with the closure and post closure requirements applicable to sanitary landfills under the Administrative Code (i.e., cap-in-place, including a final cover system, groundwater monitoring system, post-closure care with financial assurance, etc.), except that the impoundments would not be required to have a leachate collection system. Provided, however, this method of closure, commonly referred to as "cap-in-place," would not be approvable unless DEQ finds that the proposed closure plan includes design measures to prevent, upon the plan's full implementation, post closure exceedances of groundwater quality standards beyond the compliance boundary that are attributable to constituents associated with the presence of the impoundment.

The PCS provides that the closure method implemented would be at the election of DEQ.

House PCS 630

Page 3

- Would modify the possible closure options for an impoundment classified as intermediate-risk to allow an extension of the current closure deadline of December 31, 2024, to December 31, 2029, if the impoundment is located at a site at which an ash beneficiation project is installed, operating, and processing at least 300,000 tons of ash annually from the impoundment.
- Would modify variance authority established under the CAMA as enacted in 2014 (which allowed extension of a closure deadline applicable to an impoundment by 3 years), to allow the Secretary of Environmental Quality to grant a variance for any deadline under the CAMA on the basis that compliance with the deadline cannot be achieved by application of best available technology found to be economically reasonable at the time and would produce serious hardship without equal or greater benefits to the public.
- Would require an impoundment owner to:
 - On or before January 1, 2017: (i) identify, at a minimum, impoundments at two sites located within the State with ash stored in the impoundments on that date that is suitable for processing for cementitious purposes; and (ii) enter into a binding agreement for the installation and operation of an ash beneficiation project at each site capable of annually processing 300,000 tons of ash to specifications appropriate for cementitious products, with all ash processed to be removed from the impoundment(s) located at the sites. The PCS would require that no later than 24 months after issuance of all necessary permits, operation of the ash beneficiation projects must be commenced.
 - On or before July 1, 2017 identify an additional site to process ash for cementitious purposes and enter into a binding agreement for the installation and operation of an ash beneficiation project capable of annually processing 300,000 tons of ash to specifications appropriate for cementitious products, with all ash processed to be removed from the impoundment(s) located at the site. The PCS would require that no later than 24 months after issuance of all necessary permits, operation of the ash beneficiation projects must be commenced.

The PCS would provide that, notwithstanding any deadline for closure under the CAMA, any impoundment classified as intermediate- or low-risk that is located at a site at which an ash beneficiation project is installed, operating, and processing at least 300,000 tons of ash annually from the impoundment, must be closed no later than December 31, 2029.

Section 2 of the PCS would decrease the fee imposed on each public utility with a coal combustion residuals surface impoundment (for the purpose of defraying the costs of oversight of coal combustion residuals) from 0.03% to 0.022% (the amount of the decrease represents that portion that would have been credited to the Coal Ash Management Commission).

Section 3 of the PCS would provide that notwithstanding any requirements for prioritization and closure under the CAMA, the following impoundments would be deemed intermediate-risk:

- (1) Coal combustion residuals surface impoundments located at the H.F. Lee Steam Station, owned and operated by Duke Energy Progress, and located in Wayne County.
- (2) Coal combustion residuals surface impoundments located at the Cape Fear Steam Station, owned and operated by Duke Energy Progress, and located in Chatham County.
- (3) Coal combustion residuals surface impoundments located at the Weatherspoon Steam Station, owned and operated by Duke Energy Progress, and located in New Hanover County.

House PCS 630

Page 4

These impoundments must be closed as soon as practicable, but no later than August 1, 2028, subject to the following requirements:

- The impoundments would be required to be dewatered.
- All CCR would need to be removed from the impoundments and transferred for: (i) disposal in a combustion products landfill or coal combustion residuals landfill, industrial landfill, or municipal solid waste landfill; or (ii) use in a structural fill, or other beneficial use as allowed by law.
- Where groundwater quality is degraded as a result of the impoundment, corrective action would be required to restore groundwater quality.

Section 4 of the PCS would appropriate \$450,000 to the State Water Infrastructure Authority from the Coal Combustion Residuals Management Fund cash balance on June 30, 2016, to fund grants to local governments operating public water supplies in areas surrounding coal combustion residuals impoundments to provide moneys for additional staff for permitting and construction activities as may be needed to facilitate establishment of permanent water supplies to households eligible for connection to public water supplies under the provisions of the PCS.

Section 5 of the PCS would make technical changes to the CAMA as enacted in 2014 to reflect repeal of the Coal Ash Management Commission.

Section 6(a) of the PCS would:

- Modify the appointments to the Mining Commission by providing, in addition to 2 ex officio positions: 4 appointments to be made by the Governor in conformance with Article III, Section 5(8) of the Constitution of North Carolina¹, 1 appointment upon recommendation of the President Pro Tempore of the Senate, and 1 appointment upon recommendation of the Speaker of the House of Representatives. (The membership as originally enacted provided for 2 ex officio positions, 2 appointments by the Governor, 2 appointments by the President Pro Tempore of the Senate, and 2 appointments by the Speaker of the House of Representatives).
- Decrease the duration of membership terms from six years to four years.
- Add "good cause" to the basis for which the Governor may remove any member of the Commission (in addition to existing authority to remove for misfeasance, malfeasance, or nonfeasance).
- Modify existing law which provides that staff to the Commission shall be supplied by the Secretary of Environmental Quality, to add additional language specifying that such staff shall be housed in DEQ, and supervised by the Secretary of Environmental Quality.

Section 6(b) of the PCS would provide that the initial appointments made by the Governor to the Commission would not be subject to confirmation by the General Assembly.

¹ This clause states: "The Governor shall nominate and by and with the advice and consent of a majority of the Senators appoint all officers whose appointments are not otherwise provided for."

House PCS 630

Page 5

Section 7(a) of the PCS would:

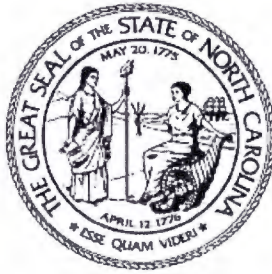
- Modify the appointments to the Oil and Gas Commission by providing: 5 appointments to be made by the Governor in conformance with Article III, Section 5(8) of the Constitution of North Carolina, 2 appointments upon recommendation of the President Pro Tempore of the Senate, and 2 appointments upon recommendation of the Speaker of the House of Representatives. (The membership as originally enacted provides for 3 appointments by the Governor, 3 appointments by the President Pro Tempore of the Senate, and 3 appointments by the Speaker of the House of Representatives).
- Increase the duration of membership terms from three years to four years.
- Add "good cause" to the basis for which the Governor may remove any member of the Commission (in addition to existing authority to remove for misfeasance, malfeasance, or nonfeasance).
- Modify existing law which provides that staff for the Commission must be supplied by DEQ's Division of Energy, Mineral, and Land Resources and the North Carolina Geological Survey, to add additional language specifying that such staff shall supervised by the Secretary of Environmental Quality.

Section 7(b) of the PCS would provide that the initial appointments made by the Governor to the Commission would not be subject to confirmation by the General Assembly.

Section 7(c) would provide that rules set forth in 15A NCAC 05H (Oil and Gas Conservation Rules) are effective until the Oil and Gas Commission, as reconstituted by the PCS, amends or repeals the rules.

Section 8 would provide that the provisions of the PCS would be severable, and if any phrase, clause, sentence, or provision is declared to be unconstitutional or otherwise invalid, the validity of the remainder of this PCS would not be affected thereby

EFFECTIVE DATE: The PCS would be effective when it becomes law.



Senate Committee On Rules Operations

June 28, 2016 – Room 1027/1128 – 11:00 AM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
<i>John P. [unclear]</i>	<i>NCAAA</i>
<i>Johanna Reese</i>	<i>NCACC</i>
<i>Hugh Johnson</i>	<i>NCACC</i>
<i>Josh Lamm</i>	<i>Reaction for Merica</i>
<i>Jingjing Guo</i>	<i>NCACC</i>
<i>Shenue Birdsong</i>	<i>ACLI-NC</i>
<i>Rose-Helen Graham</i>	<i>NC Ethics Commission</i>
<i>Gene Royall</i>	<i>NC FPL</i>
<i>Bayanne</i>	<i>[unclear]</i>
<i>Doug Martin</i>	<i>PSG</i>
<i>Colleen Cochran</i>	<i>KLG</i>
<i>Courtney Lockamy</i>	<i>Randolph Cloud & Assoc.</i>
<i>Gary Salas</i>	<i>NC Chamber</i>
<i>DAVIN POWERS</i>	<i>WCSR</i>
<i>M. Smallwood</i>	<i>UNC SOL</i>
<i>Mingali Nigam</i>	<i>NC Health Care</i>
<i>John DeBorja</i>	<i>Brubaker Assoc.</i>
<i>Rick Zechini</i>	<i>Williams Mullen</i>



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Senate Committee On Rules Operations
June 28, 2016 – Room 1027/1128 – 11:00 AM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
LC Ryzman	CSS
Shley Long	NC DOC
3 Valauri	NWI
Adam Stolar	NCHCFA
David Heinen	NC Center for Nonprofits
Geneva Holmes	NC Center for Nonprofits
Doug Latta	NCSTA
Robert Howard	NICMA
Matthew Barbrock	NLC
Robb Jansen	NCSBE
Tim W	COA
Wendy Kelly	Trans-Carolina
Amanda Donovan	TSS
Rose Williams	NCLM
Sarah Collins	NCLM
Andrew Bushnell	NCAR
Isabel Villa-Garcia	NCAR
Paul Sherman	NCEB
SCOTT LASTER	SSONC



MINUTES

Rules and Operations of the Senate

June 29, 2016

The Rules and Operations of the Senate committee met on June 29, 2016 at 1:30 p.m. The meeting was held in room 1027/1028 of the Legislative Building. Eleven members of the committee were present. Senator Tom Apodaca presided.

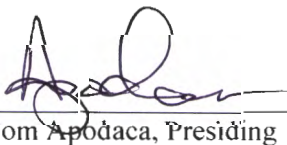
Senator Apodaca introduced the Pages and the Sergeant at Arms.

Senator Apodaca brought forth the items on the agenda:

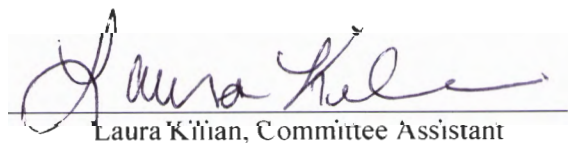
SB821: GSC Technical Corrections 1- Senator Brock moved to bring the PCS before the committee. Senator Hartsell explained the PCS. Senator Lowe moved for a favorable report to the PCS, unfavorable to the original PCS. Motion carried.

SB898: 2016 PPT Appointments Bill- Senator Brown moved to bring the PCS before the committee. Senator Apodaca explained the PCS. Senator Lowe moved for a favorable report to the PCS, unfavorable to the original bill.

The meeting adjourned at 1:43 p.m.



Senator Tom Apodaca, Presiding



Laura Kilian, Committee Assistant



Principal Clerk _____
Reading Clerk _____

Corrected #1: Time Change

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Rules and Operations of the Senate** will meet at the following time:

DAY	DATE	TIME	ROOM
Wednesday	June 29, 2016	1:30 PM	1027/1128 LB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
SB 821	GSC Technical Corrections 1.	Senator Hartsell
SB 898	2016 PPT Appointments Bill.	Senator Apodaca

Senator Tom Apodaca, Chair



**Senate Committee on Rules and Operations of the Senate
Wednesday, June 29, 2016, 1:30 PM
1027/1128 Legislative Building**

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 821	GSC Technical Corrections 1.	Senator Hartsell
SB 898	2016 PPT Appointments Bill.	Senator Apodaca

Presentations

Other Business

Adjournment



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT
Senator Apodaca, Co-Chair**

Wednesday, June 29, 2016

Senator Apodaca,
submits the following with recommendations as to passage:

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO
COMMITTEE SUBSTITUTE BILL NO. 2**

SB 821 (CS#1)

GSC Technical Corrections 1.

Draft Number:	S821-PCS45554-MN-14
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Fletcher L. Hartsell, Jr. will handle SB 821



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**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT
Senator Apodaca, Co-Chair**

Wednesday, June 29, 2016

Senator Apodaca,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

SB 898

2016 PPT Appointments Bill.

Draft Number:	S898-PCS35382-LG-15
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Tom Apodaca will handle SB 898



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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S

1

SENATE BILL 898

Short Title: 2016 PPT Appointments Bill. (Public)

Sponsors: Senator Apodaca (Primary Sponsor).

Referred to: Rules and Operations of the Senate

June 27, 2016

A BILL TO BE ENTITLED

AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE
RECOMMENDATION OF THE PRESIDENT PRO TEMPORE OF THE SENATE.

Whereas, G.S. 120-121 authorizes the General Assembly to make certain appointments
to public offices upon the recommendation of the President Pro Tempore of the Senate; and

Whereas, the President Pro Tempore of the Senate has made a recommendation; Now,
therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Effective October 1, 2016, Owen D. Andrews of Craven County is
appointed to the Outdoor Heritage Advisory Council for a term expiring on September 30, 2020.

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





GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S

D

SENATE BILL 898
PROPOSED COMMITTEE SUBSTITUTE S898-CSLG-15 [v.2]

06/28/2016 07:34:40 PM

Short Title: 2016 PPT Appointments Bill.

(Public)

Sponsors:

Referred to:

June 27, 2016

A BILL TO BE ENTITLED

AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE
RECOMMENDATIONS OF THE PRESIDENT PRO TEMPORE OF THE SENATE AND
THE MAJORITY LEADER OF THE SENATE.

Whereas, G.S. 120-121 authorizes the General Assembly to make certain appointments
to public offices upon the recommendation of the President Pro Tempore of the Senate; and

Whereas, the President Pro Tempore of the Senate has made recommendations; and

Whereas, G.S. 143B-168.12 authorizes the General Assembly to appoint a member of
the public to the Board of Directors of the North Carolina Partnership for Children, Inc., upon
recommendation of the Majority Leader of the Senate; and

Whereas, the Majority Leader of the Senate has made a recommendation; Now,
therefore,

The General Assembly of North Carolina enacts:

PART I. PRESIDENT PRO TEMPORE'S RECOMMENDATIONS

SECTION 1.1. Effective October 1, 2016, Owen D. Andrews of Craven County is
appointed to the Outdoor Heritage Advisory Council for a term expiring on September 30, 2020.

SECTION 1.2. G.S. 90-471 requires the terms of members of the North Carolina
Institute of Medicine Board of Directors to be staggered. To stagger the terms, the terms of Keith
Holtsclaw of Mitchell County and Dr. Penney Burlingame Deal of Onslow County appointed to
the North Carolina Institute of Medicine Board of Directors expire on December 31, 2017.

SECTION 1.3. Effective January 1, 2017, Joshua T. Brown of Durham County and
Jeffrey H. Ledford of Cleveland County are appointed to the 911 Board for terms expiring on
December 31, 2020.

SECTION 1.4. Dr. Kevin Sharp of Forsyth County is appointed to the North Carolina
State Board of Chiropractic Examiners for a term expiring on June 30, 2019.

SECTION 1.5. Virginia R. Smith of Johnston County is appointed to the Board of
Trustees of the State Health Plan for Teachers and State Employees for a term expiring on June
30, 2018.

SECTION 1.6. Toni Rittenberg of Craven County and Ji Fei "Jeffrey" Wang of
Mecklenburg County are appointed to the Acupuncture Licensing Board for terms expiring on
June 30, 2019.

SECTION 1.7. Aaron Fleming of Wake County and Cory S. Causby of Haywood
County are appointed to the North Carolina Center for the Advancement of Teaching Board of
Trustees for terms expiring June 30, 2020.



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1 **SECTION 1.8.** Belinda Ann Tate of Forsyth County is appointed to the
2 African-American Heritage Commission for a term expiring on June 30, 2019.

3 **SECTION 1.9.** Dr. Charles Bruce Williams of New Hanover County is appointed to
4 the North Carolina Agricultural Finance Authority for a term expiring on June 30, 2019.

5 **SECTION 1.10.** Jennifer Sullivan of Cumberland County is appointed to the North
6 Carolina Arboretum Board of Directors for a term expiring on June 30, 2020.

7 **SECTION 1.11.** Effective March 1, 2016, Vincent DeBenedetto of Wake County is
8 appointed to the North Carolina Capital Facilities Finance Agency Board of Directors for a term
9 expiring on February 28, 2020.

10 **SECTION 1.12.** Elizabeth Gilleland of Wake County and Reverend Charles F.
11 McDowell III of Scotland County are appointed to the North Carolina Child Care Commission for
12 terms expiring on June 30, 2018.

13 **SECTION 1.13.** William Toole of Gaston County is appointed to the North Carolina
14 Clean Water Management Trust Fund Board of Trustees Council for a term expiring on July 1,
15 2019.

16 **SECTION 1.14.** Michael S. Edwards of Wake County is appointed to the Disciplinary
17 Hearing Commission of the North Carolina State Bar for a term expiring on June 30, 2019.

18 **SECTION 1.15.** Effective January 1, 2017, Jonathan A. Jeffries of Randolph County
19 is appointed to the North Carolina Locksmith Licensing Board for a term expiring on December
20 31, 2019.

21 **SECTION 1.16.** Richard L. Hill of Pitt County and Cynthia R. Barringer of Cabarrus
22 County are appointed to the North Carolina Manufactured Housing Board for terms expiring on
23 June 30, 2019.

24 **SECTION 1.17.** William Russell Davis of Onslow County is appointed to the North
25 Carolina On-Site Wastewater Contractors and Inspectors Certification Board for a term expiring
26 on June 30, 2019.

27 **SECTION 1.18.** Cynthia Tart of Brunswick County is appointed to the North Carolina
28 Parks and Recreation Authority for a term expiring on June 30, 2019.

29 **SECTION 1.19.** Rhett N. Mabry of Mecklenburg County is appointed to the
30 Permanency Innovation Initiative Oversight Committee for a term expiring on June 30, 2019.

31 **SECTION 1.20.** Michael J. Atkins of Wake County is appointed to the North Carolina
32 Recreational Therapy Licensure Board for a term expiring on June 30, 2019.

33 **SECTION 1.21.** Robin L. Ross of Caldwell County is appointed to the North Carolina
34 Respiratory Care Board for a term expiring on June 30, 2019.

35 **SECTION 1.22.** Zenas E. Fearing of Dare County, Edward Brent Lane of Wake
36 County, and Clark S. Twiddy of Dare County are appointed to the Roanoke Island Commission
37 for terms expiring on June 30, 2018.

38 **SECTION 1.23.** Pamela J. Cundiff of Rockingham County and Heath R. Jenkins of
39 Gaston County are appointed to the Rural Infrastructure Authority for terms expiring on June 30,
40 2019.

41 **SECTION 1.24.** Effective April 1, 2016, Edward Ashby of Surry County is appointed
42 to the North Carolina State Banking Commission for a term expiring on March 31, 2020.

43 **SECTION 1.25.** Susan B. Lewis of Gaston County is appointed to the North Carolina
44 State Building Commission for a term expiring on June 30, 2019.

45 **SECTION 1.26.** Effective January 1, 2017, Daniel Zeller of Guilford County is
46 appointed to the State Ethics Commission for a term expiring on December 31, 2020.

47 **SECTION 1.27.** Diane R. Smith of Caldwell County is appointed to the North
48 Carolina State Board of Cosmetic Art Examiners for a term expiring on June 30, 2019.

49 **SECTION 1.28.** Jerome J. Cook of Forsyth County is appointed to the North Carolina
50 State Ports Authority for a term expiring on June 30, 2018.



1 **SECTION 1.29.** Melinda L. Baran of Wake County is appointed to the Supplemental
2 Retirement Board of Trustees for a term expiring on June 30, 2019.

3 **SECTION 1.30.** Ronald Cooper of Pitt County and Perri Morgan of Wake County are
4 appointed to the Umstead Act Unfair Competition Panel for terms expiring on June 30, 2020.

5 **SECTION 1.31.** Dr. Dwight Cochran of Wake County is appointed to the North
6 Carolina Veterinary Medical Board for a term expiring on June 30, 2021.

7 **SECTION 1.32.** Dr. Brian B. Sheitman of Wake County and Robin Todd-Hall of
8 Caldwell County are appointed to the North Carolina Commission for Mental Health,
9 Developmental Disabilities, and Substance Abuse Services for terms expiring on June 30, 2019.

10 **SECTION 1.33.** Charles E. Vines of Mitchell County is appointed to the North
11 Carolina State Water Infrastructure Authority for a term expiring on June 30, 2018.

12 **SECTION 1.34.** Effective on the date this act becomes law, Ernie L. Coleman of
13 Beaufort County and Benjamin J. Curtis of Rockingham County are appointed to the Governor's
14 Crime Commission for terms expiring on February 28, 2017.

15 **SECTION 1.35.** Effective September 1, 2016, Angela L. Harris of Franklin County,
16 Gregory C. Light of Rockingham County, The Honorable David V. Byrd of Wilkes County, and
17 Maureen H. Krueger of Moore County are appointed to the Domestic Violence Commission for
18 terms expiring on August 31, 2018.

19 **SECTION 1.36.** Michael J. Martini of Guilford County and Sajjan Agarwal of Wake
20 County are appointed to the North Carolina Education and Workforce Innovation Commission for
21 terms expiring on June 30, 2019.

22 **SECTION 1.37.** Effective January 1, 2017, Marie D. Inscore of Nash County, James
23 P. Danahy of Guilford County, and Lorraine Benthin of Rockingham County are appointed to the
24 Board of Directors of the North Carolina Partnership for Children, Inc., for terms expiring on
25 December 31, 2019.

26 **SECTION 1.38.** Effective January 1, 2017, Hugh Campbell of Surry County is
27 appointed to the North Carolina State Judicial Council for a term expiring on December 31, 2020.

28 **SECTION 1.39.** H. Vernon Massengill of Caswell County is appointed to the North
29 Carolina State Fire and Rescue Commission for a term expiring on June 30, 2019.

30 **SECTION 1.40.** Effective on the date this act becomes law, Leslie T. Everett of Pitt
31 County is appointed to the North Carolina Code Officials Qualification Board for a term expiring
32 on June 30, 2018, to fill the unexpired term of Chris Nuckolls.

33 **SECTION 1.41.** Effective on the date this act becomes law, Michael Caron of Union
34 County is appointed to North Carolina Landscape Contractors' Licensing Board for a term
35 expiring on July 31, 2018.

36
37 **PART II. SENATE MAJORITY LEADER'S RECOMMENDATION**

38 **SECTION 2.** Effective January 1, 2017, Cheryl Cavanaugh of Onslow County is
39 appointed to the North Carolina Partnership for Children, Inc., Board of Directors for a term
40 expiring on December 31, 2019.

41
42 **PART III. EFFECTIVE DATE**

43 **SECTION 3.** Unless otherwise provided, this act becomes effective July 1, 2016.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S

2

SENATE BILL 821*
Judiciary I Committee Substitute Adopted 6/21/16

Short Title: GSC Technical Corrections 1.

(Public)

Sponsors:

Referred to:

May 10, 2016

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE GENERAL STATUTES, AS
3 RECOMMENDED BY THE GENERAL STATUTES COMMISSION, AND TO MAKE
4 ADDITIONAL TECHNICAL AND OTHER AMENDMENTS TO THE GENERAL
5 STATUTES.

6 The General Assembly of North Carolina enacts:

7
8 **PART I. TECHNICAL CORRECTIONS RECOMMENDED BY THE GENERAL**
9 **STATUTES COMMISSION**

10 **SECTION 1.** G.S. 14-118.6(b1) reads as rewritten:

11 "(b1) When a lien or encumbrance is presented to a clerk of superior court for filing and the
12 clerk of court has a reasonable suspicion that the lien or encumbrance is false as described in
13 subsection (a) of this section, the clerk of court may refuse to file the lien or encumbrance. Neither
14 the clerk of court nor the clerk's staff shall be liable for filing or the refusal to file a lien or
15 encumbrance under this subsection. The clerk of superior court shall not file, index, or docket the
16 document against the property of a public officer or public employee until that document is
17 approved by any judge of the judicial district having subject matter jurisdiction for filing by the
18 clerk of superior court by any judge of the judicial district having subject matter jurisdiction.
19 court. If the judge determines that the filing is not false, the clerk shall index the claim of lien. A
20 lien or encumbrance filed upon order of the court under this subsection shall have a priority
21 interest as of the date and time of indexing by the clerk of superior court. If the court finds that
22 there is no statutory or contractual basis for the proposed filing, the court shall enter an order that
23 the proposed filing is null and void as a matter of law, and that it shall not be filed or indexed. The
24 clerk of superior court shall serve the order and return the original denied filing to the person or
25 entity that presented it. The person or entity shall have 30 days from the entry of the order to
26 appeal the order. If the order is not appealed within the applicable time period, the clerk may
27 destroy the filing."

28 **SECTION 1.1.** G.S. 14-159.3(a1) reads as rewritten:

29 "(a1) A landowner who gives a person written consent to operate an all-terrain vehicle on his
30 or her the landowner's property owes the person the same duty of care that he or she the landowner
31 owes a trespasser."

32 **SECTION 2.** G.S. 14-208.6 reads as rewritten:

33 **"§ 14-208.6. Definitions.**

34 The following definitions apply in this Article:

35 ...



* S 8 2 1 - V - 2 *

(5) "Sexually violent offense" means a violation of former G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.21 (first-degree forcible rape), G.S. 14-27.22 (second-degree forcible rape), G.S. 14-27.23 (statutory rape of a child by an adult), G.S. 14-27.24 (first-degree statutory rape), G.S. 14-27.25(a) (statutory rape of a person who is 15 years of age or younger and where the defendant is at least six years older), G.S. 14-27.26 (first-degree forcible sexual offense), G.S. 14-27.27 (second-degree forcible sexual offense), G.S. 14-27.28 (statutory sexual offense with a child by an adult), G.S. 14-27.29 (first-degree statutory sexual offense), G.S. 14-27.30(a) (statutory sexual offense with a person who is 15 years of age or younger and where the defendant is at least six years older), G.S. 14-27.31 (sexual activity by a substitute parent or custodian), G.S. 14-27.32 (sexual activity with a student), G.S. 14-27.33 (sexual battery), G.S. 14-43.11 (human trafficking) if (i) the offense is committed against a minor who is less than 18 years of age or (ii) the offense is committed against any person with the intent that they be held in sexual servitude, G.S. 14-43.13 (subjecting or maintaining a person for sexual servitude), G.S. 14-178 (incest between near relatives), G.S. 14-190.6 (employing or permitting minor to assist in offenses against public morality and decency), G.S. 14-190.9(a1) (felonious indecent exposure), G.S. 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third degree sexual exploitation of a minor), G.S. 14-202.1 (taking indecent liberties with children), G.S. 14-202.3 (Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act), G.S. 14-202.4(a) (taking indecent liberties with a student), G.S. 14-205.2(c) or (d) (patronizing a prostitute who is a minor or a mentally disabled person), G.S. 14-205.3(b) (promoting prostitution of a minor or a mentally disabled person), G.S. 14-318.4(a1) (parent or caretaker commit or permit act of prostitution with or by a juvenile), or G.S. 14-318.4(a2) (commission or allowing of sexual act upon a juvenile by parent or guardian). The term also includes the following: a solicitation or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.

...."

SECTION 2.1. G.S. 20-45 reads as rewritten:

"§ 20-45. Seizure of documents and plates.

(a) The Division is ~~hereby~~ authorized to take possession of any certificate of title, registration card, permit, license, or registration plate issued by it upon expiration, revocation, cancellation, or suspension thereof, or which is fictitious, or which has been unlawfully or erroneously issued, or which has been unlawfully used.

(b) The Division may give notice to the owner, licensee or lessee of its authority to take possession of any certificate of title, registration card, permit, license, or registration plate issued by it and require that person to surrender it to the Commissioner or ~~his~~ the Commissioner's officers or agents. Any person who fails to surrender the certificate of title, registration card, permit, license, or registration plate or any duplicate thereof, upon personal service of notice or within 10 days after receipt of notice by mail as provided in G.S. 20-48, shall be guilty of a Class 2 misdemeanor.

(c) Any sworn law enforcement officer with jurisdiction, including a member of the State Highway Patrol, is authorized to seize the certificate of title, registration card, permit, license, or registration plate, if the officer has electronic or other notification from the Division that the item has been revoked or cancelled, or otherwise has probable cause to believe that the item has been revoked or cancelled under any law or statute, including ~~G.S. 20-309(e)~~ G.S. 20-311. If a criminal proceeding relating to a certificate of title, registration card, permit, or license is pending, the law

1 enforcement officer in possession of that item shall retain the item pending the entry of a final
2 judgment by a court with jurisdiction. If there is no criminal proceeding pending, the law
3 enforcement officer shall deliver the item to the Division.

4 (d) Any law enforcement officer who seizes a registration plate pursuant to this section
5 shall report the seizure to the Division within 48 hours of the seizure and shall return the
6 registration plate, but not a fictitious registration plate, to the Division within 10 business days of
7 the seizure."

8 **SECTION 3.** The catch line of G.S. 20-171.24 reads as rewritten:

9 **"§ 20-171.24. Motorized all-terrain vehicle use by municipal and county employees of listed
10 municipalities and counties permitted on certain highways."**

11 **SECTION 3.1.** G.S. 24-10.1(a) reads as rewritten:

12 "(a) Subject to the limitations contained in subsection (b) of this section, any lender may
13 charge a party to a loan or extension of credit governed by the provisions of ~~G.S. 24-1.1, 24-1.2,~~
14 G.S. 24-1.1 or G.S. 24-1.1A a late payment charge as agreed upon by the parties in the loan
15 contract."

16 **SECTION 4.** G.S. 28A-2-4 reads as rewritten:

17 **"§ 28A-2-4. Subject matter jurisdiction of the clerk of superior court in estate proceedings.**

18 (a) The clerks of superior court of this State, as ex officio judges of probate, shall have
19 original jurisdiction of estate proceedings. Except as provided in subdivision (4) of this subsection,
20 the jurisdiction of the clerk of superior court is exclusive. Estate proceedings include, but are not
21 limited to, the following:

- 22 (1) Probate of wills.
- 23 (2) Granting and revoking of letters testamentary and letters of administration, or
24 other proper letters of authority for the administration of estates.
- 25 (3) Determination of the elective share for a surviving spouse as provided in
26 G.S. 30-3.
- 27 (4) Proceedings to ascertain heirs or devisees, to approve settlement agreements
28 pursuant to G.S. 28A-2-10, to determine questions of construction of wills, to
29 determine priority among creditors, to determine whether a person is in
30 possession of property belonging to an estate, to order the recovery of property
31 of the estate in possession of third parties, and to determine the existence or
32 nonexistence of any immunity, power, privilege, duty, or right. Any party or the
33 clerk of superior court may file a notice of transfer of a proceeding pursuant to
34 this subdivision to the Superior Court Division of the General Court of Justice
35 as provided in G.S. 28A-2-6(h). In the absence of a transfer to superior court,
36 Article 26 of Chapter 1 of the General Statutes shall apply to ~~a trust or an estate~~
37 proceeding pending before the clerk of superior court to the extent consistent
38 with this Article.

39 (b) Nothing in this section shall affect the right of a person to file an action in the Superior
40 Court Division of the General Court of Justice for declaratory relief under Article 26 of Chapter 1
41 of the General Statutes. In the event that either the petitioner or the respondent in an estate
42 proceeding requests declaratory relief under Article 26 of Chapter 1 of the General Statutes, either
43 party may move for a transfer of the proceeding to the Superior Court Division of the General
44 Court of Justice as provided in Article 21 of Chapter 7A of the General Statutes. In the absence of
45 a removal to superior court, Article 26 of Chapter 1 of the General Statutes shall apply to an estate
46 proceeding to the extent consistent with this Article.

47 (c) Without otherwise limiting the jurisdiction of the Superior Court Division of the
48 General Court of Justice, the clerk of superior court shall not have jurisdiction under subsection (a)
49 or ~~(e)-(b)~~ of this section or G.S. 28A-2-5 of the following:

- 50 (1) Actions by or against creditors or debtors of an estate, except as provided in
51 Article 19 of this Chapter.

- (2) Actions involving claims for monetary damages, including claims for breach of fiduciary duty, fraud, and negligence.
- (3) Caveats, except as provided under G.S. 31-36.
- (4) Proceeding to determine proper county of venue as provided in G.S. 28A-3-2.
- (5) Recovery of property transferred or conveyed by a decedent with intent to hinder, delay, or defraud creditors, pursuant to G.S. 28A-15-10(b)."

SECTION 5. Reserved.

SECTION 6. G.S. 28A-19-5(b) reads as rewritten:

"(b) With respect to a contingent or unliquidated claim rejected by a personal representative pursuant to G.S. 28A-19-16, the claimant may, within the three-month period prescribed by G.S. 28A-19-16, file a petition for an order of the clerk of superior court in accordance with subsection (a) of this section, provided that nothing in this section shall require the clerk of superior court to hear and determine the validity of, priority of, or amount of a contingent or unliquidated claim that has not yet become absolute."

SECTION 7. G.S. 31B-1(a) reads as rewritten:

"(a) A person who succeeds to a property interest as:

...

- (8) ~~Appointee~~ Appointee, permissible appointee, or taker in default under a power of appointment exercised by a testamentary instrument or a nontestamentary instrument;

...

may renounce at anytime, in whole or in part, the right of succession to any property or interest therein, including a future interest, by filing a written instrument under the provisions of this Chapter. A renunciation may be of a fractional share or any limited interest or estate. The renunciation shall be deemed to include the entire interest of the person whose property or interest is being renounced unless otherwise specifically limited. A person may renounce any interest in or power over property, including a power of appointment, even if its creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to renounce. Notwithstanding the foregoing, there shall be no right of partial renunciation if the instrument creating the interest expressly so provides."

SECTION 7.1. G.S. 36C-8-816.1 reads as rewritten:

"§ 36C-8-816.1. **Trustee's special power to appoint to a second trust.**

(a) For purposes of this section, the following definitions apply:

- (1) Current beneficiary. – A person who is a permissible distributee of trust income or principal.
- (2) Original trust. – A trust established under an irrevocable trust instrument pursuant to the terms of which a trustee has a discretionary power to distribute principal or income of the trust to or for the benefit of one or more current beneficiaries of the trust.
- (3) Second trust. – A trust established under an irrevocable trust instrument, the current beneficiaries of which are one or more of the current beneficiaries of the original trust. The second trust may be a trust created under the same trust instrument as the original trust or under a different trust instrument.

(b) A trustee of an original trust may, without authorization by the court, exercise the discretionary power to distribute principal or income to or for the benefit of one or more current beneficiaries of the original trust by appointing all or part of the principal or income of the original trust subject to the power in favor of a trustee of a second trust. The trustee of the original trust may exercise this power whether or not there is a current need to distribute principal or income under any standard provided in the terms of the original trust. The trustee's special power to appoint trust principal or income in further trust under this section includes the power to create the second trust. The second trust may have a duration that is longer than the duration of the first trust.

- 1 (c) The terms of the second trust shall be subject to all of the following:
- 2 (1) The beneficiaries of the second trust may include only beneficiaries of the
- 3 original trust.
- 4 (2) A beneficiary who has only a future beneficial interest, vested or contingent, in
- 5 the original trust cannot have the future beneficial interest accelerated to a
- 6 present interest in the second trust.
- 7 (3) The terms of the second trust may not reduce any fixed income, annuity, or
- 8 unitrust interest of a beneficiary in the assets of the original trust if that interest
- 9 has come into effect with respect to the beneficiary.
- 10 (4) If any contribution to the original trust qualified for a marital or charitable
- 11 deduction for federal income, gift, or estate tax purposes under the Internal
- 12 Revenue Code, then the second trust shall not contain any provision that, if
- 13 included in the original trust, would have prevented the original trust from
- 14 qualifying for the deduction or that would have reduced the amount of the
- 15 deduction.
- 16 (5) If contributions to the original trust have been excluded from the gift tax by the
- 17 application of section 2503(b) and section 2503(c) of the Internal Revenue
- 18 Code, then the second trust shall provide that the beneficiary's remainder
- 19 interest in the contributions shall vest and become distributable no later than the
- 20 date upon which the interest would have vested and become distributable under
- 21 the terms of the original trust.
- 22 (6) If any beneficiary of the original trust has a power of withdrawal over trust
- 23 property, then either:
- 24 a. The terms of the second trust must provide a power of withdrawal in the
- 25 second trust identical to the power of withdrawal in the original trust; or
- 26 b. Sufficient trust property must remain in the original trust to satisfy the
- 27 outstanding power of withdrawal.
- 28 (7) If a trustee of an original trust exercises a power to distribute principal or
- 29 income that is subject to an ascertainable standard by appointing property to a
- 30 second trust, then the power to distribute income or principal in the second trust
- 31 must be subject to the same ascertainable standard as in the original trust and
- 32 must be exercisable in favor of the same current beneficiaries to whom such
- 33 distribution could be made in the original trust.
- 34 (8) The second trust may confer a power of appointment upon a beneficiary of the
- 35 original trust to whom or for the benefit of whom the trustee has the power to
- 36 distribute principal or income of the original trust. The permissible appointees
- 37 of the power of appointment conferred upon a beneficiary may include persons
- 38 who are not beneficiaries of the original or second trust. The power of
- 39 appointment conferred upon a beneficiary shall be subject to the provisions of
- 40 G.S. 41-23 specifying the permissible period allowed for the suspension of the
- 41 power of alienation of the original trust and the time from which that
- 42 permissible period is computed.
- 43 (9) The terms of the second trust shall not contain any provisions that would
- 44 jeopardize (i) the qualification of a transfer as a direct skip under section
- 45 2642(c) of the ~~Internal Revenue~~ Internal Revenue Code, (ii) if the first trust
- 46 owns subchapter S Corporation stock, the election to treat a corporation as a
- 47 subchapter S Corporation under section 1362 of the ~~Internal Revenue~~ Internal Revenue Code,
- 48 (iii) if the first trust owns an interest in property subject to the minimum
- 49 distribution rules of section 401(a)(9) of the ~~Internal Revenue~~ Internal Revenue Code, a favorable
- 50 distribution period by shortening the minimum distribution period, or (iv) any
- 51 other specific tax benefit for which a contribution originally the first trust was

clearly designed to qualify and for which the first trust qualified or would have qualified for income, gift, estate, or generation-skipping transfer tax purposes, but for the enactment of this section. In this subdivision, "tax benefit" means a federal or State tax deduction, exemption, exclusion, or other benefit not otherwise listed in this section, except for the benefit from having the settlor considered the owner under sections 671 through 679 of the Internal Revenue Code. Subject to clause (ii) above, the second trust may be a trust as to which the settlor is not considered the owner under sections 671 through 679 of the Internal Revenue Code even if the settlor is considered the owner of the first trust, and the second trust may be a trust as to which the settlor of the first trust is considered the owner under sections 671 through 679 of the Internal Revenue Code, even if the settlor is not considered the owner of the first trust.

(10) Notwithstanding any other provision of this section, but subject to the limitations of subdivisions (1), (2), (4), (5), and (9) of this subsection, a trustee may exercise the power to appoint principal and income under subsection (b) of this section with respect to a disabled beneficiary's interest in the original trust to a second trust that is a supplemental needs trust that does not have (i) an ascertainable standard (or has a different ascertainable standard); (ii) a fixed income, annuity, or unitrust interest in the assets of the original trust; or (iii) a right of withdrawal, if the trustee determines that it would be in the best interest of the disabled beneficiary. For purposes of this subsection, the following apply:

- a. A "supplemental needs trust" means a trust that is a discretionary trust under G.S. 36C-5-504 and relative to the original trust contains either lesser or greater restrictions on the trustee's power to distribute income or principal, and which the trustee believes would, if implemented, allow the disabled beneficiary to receive greater governmental benefits than the disabled beneficiary would receive if the power to appoint principal and income had not been exercised.
- b. "Governmental benefits" means medical assistance, financial aid, or services from any local, State, or federal agency or department.
- c. A "disabled beneficiary" means a current beneficiary of the original trust who the trustee determines has a condition that substantially impairs the beneficiary's ability to provide for his or her own support, care, or custody whether or not the beneficiary has been adjudicated a "disabled person" by any government agency or department.
- d. The second supplemental needs trust shall not be liable to pay or reimburse the State or any government or public agency for medical assistance, financial aid, or services provided to the disabled beneficiary except as provided in the second supplemental needs trust.

(d) A trustee may not exercise the power to appoint principal or income under subsection (b) of this section if the trustee is a beneficiary of the original trust, but the remaining cotrustee or a majority of the remaining cotrustees may act for the trust. If all the trustees are beneficiaries of the original trust, then the court may appoint a special fiduciary with authority to exercise the power to appoint principal or income under subsection (b) of this section.

(c) The exercise of the power to appoint principal or income under subsection (b) of this section:

- (1) Shall be considered the exercise of a power of appointment, other than a power to appoint to the trustee, the trustee's creditors, the trustee's estate, or the creditors of the trustee's estate; and

(2) Shall be subject to the provisions of G.S. 41-23 specifying the permissible period allowed for the suspension of the power of alienation of the original trust and the time from which that permissible period is computed; and

(3) Is not prohibited by a spendthrift provision or by a provision in the original trust instrument that prohibits amendment or revocation of the trust.

(f) To effect the exercise of the power to appoint principal or income under subsection (b) of this section, all of the following shall apply:

(1) The exercise of the power to appoint shall be made by an instrument in writing, signed and acknowledged by the trustee, setting forth the manner of the exercise of the power, including the terms of the second trust, and the effective date of the exercise of the power. The instrument shall be filed with the records of the original trust.

(2) The trustee shall give written notice to all qualified beneficiaries of the original trust, at least 60 days prior to the effective date of the exercise of the power to appoint, of the trustee's intention to exercise the power. The notice shall include a copy of the instrument described in subdivision (1) of this subsection.

(3) If all qualified beneficiaries waive the notice period by a signed written instrument delivered to the trustee, the trustee's power to appoint principal or income shall be exercisable after notice is waived by all qualified beneficiaries, notwithstanding the effective date of the exercise of the power.

(4) The trustee's notice under this subsection shall not limit the right of any beneficiary to object to the exercise of the trustee's power to appoint and bring an action for breach of trust seeking appropriate relief as provided by G.S. 36C-10-1001.

(g) Nothing in this section shall be construed to create or imply a duty of the trustee to exercise the power to distribute principal or income, and no inference of impropriety shall be made as a result of a trustee not exercising the power to appoint principal or income conferred under subsection (b) of this section. Nothing in this section shall be construed to abridge the right of any trustee who has a power to appoint property in further trust that arises under the terms of the original trust or under any other section of this Chapter or under another provision of law or under common law.

(h) A trustee or beneficiary may commence a proceeding to approve or disapprove a proposed exercise of the trustee's special power to appoint to a second trust pursuant to subsection (b) of this section."

SECTION 7.2.(a) G.S. 39-33 and G.S. 39-34 are repealed.

SECTION 7.2.(b) G.S. 39-35 is recodified as G.S. 31D-5-505.

SECTION 7.2.(c) G.S. 39-36 is recodified as G.S. 31D-4-403.1.

SECTION 7.3. G.S. 42A-17(a) reads as rewritten:

"(a) A vacation rental agreement shall identify the name and address of the ~~bank or savings and loan association~~ federally insured depository institution in which the tenant's security deposit and other advance payments are held in a trust account, and the landlord and real estate broker shall provide the tenant with an accounting of such deposit and payments if the tenant makes a reasonable request for an accounting prior to the tenant's occupancy of the property."

SECTION 7.4. G.S. 97-25(f) reads as rewritten:

"(f) In claims subject to G.S. 97-18(b) and (d), a party may file a motion as set forth in this subsection regarding a request for medical compensation or a dispute involving medical issues. The nonmoving party shall have the right to contest the motion. Motions and responses shall be submitted contemporaneously via electronic ~~mail means~~ to the Commission and to the opposing party or the opposing party's attorney, ~~as follows~~: attorney, as follows:

(1) A party may file a motion with the Executive Secretary for an administrative ruling regarding a request for medical compensation or a dispute involving

1 medical issues. The motion shall be decided administratively pursuant to rules
2 governing motions practices in contested cases. The Commission shall decide
3 the motion within 30 days of the filing of the motion unless an extension of
4 time to respond to the motion has been granted for good cause shown. Either
5 party may file a motion for reconsideration of the administrative order with the
6 Executive Secretary. Either party may request an expedited formal hearing
7 pursuant to G.S. 97-84 and subdivision (2) of this subsection to appeal the
8 decision of the Executive Secretary approving or denying the original motion or
9 the motion for reconsideration. Within five days of the filing of a request for an
10 expedited formal hearing pursuant to G.S. 97-84 and subdivision (2) of this
11 subsection to appeal the decision of the Executive Secretary, the Commission
12 shall assign a Deputy Commissioner to conduct the formal hearing. The
13 decision shall not be stayed during the pendency of an appeal pursuant to
14 G.S. 97-84 and subdivision (2) of this subsection except under those
15 circumstances set out in subdivision (4) of this subsection. A motion to stay
16 shall be filed with the Deputy Commissioner scheduled to conduct the formal
17 hearing pursuant to G.S. 97-84. Either party may appeal the decision of the
18 Deputy Commissioner pursuant to G.S. 97-84 to the Full Commission pursuant
19 to G.S. 97-85. The decision of the Deputy Commissioner shall not be stayed
20 during the pendency of an appeal except under those circumstances set out in
21 subdivision (4) of this subsection. A motion to stay the decision of the Deputy
22 Commissioner pursuant to G.S. 97-84 shall be directed to the Chair of the
23 Commission. The Full Commission shall render a decision on the appeal of the
24 Deputy Commissioner's decision on the motion within 60 days of the filing of
25 the notice of appeal.

- 26 (2) In lieu of filing a motion with the Executive Secretary for an administrative
27 ruling pursuant to subdivision (1) of this subsection, when appealing a ruling
28 made pursuant to subdivision (1) of this subsection or when appealing an
29 administrative ruling of the Chief Deputy or the Chief Deputy's designee on an
30 emergency motion, a party may request a full evidentiary hearing pursuant to
31 G.S. 97-84 on an expedited basis, limited to a request for medical compensation
32 or a dispute involving medical issues, by filing a motion with the Office of the
33 Chief Deputy Commissioner. The case will not be ordered into mediation based
34 upon a party's request for hearing on the motion or appeal under this
35 subdivision, except upon the consent of the parties. The Commission shall set
36 the date of the expedited hearing, which shall be held within 30 days of the
37 filing of the motion or appeal and shall notify the parties of the time and place
38 of the hearing on the motion or appeal. Upon request, the Commission may
39 order expedited discovery. The record shall be closed within 60 days of the
40 filing of the motion, or in the case of an appeal pursuant to subdivisions (1) and
41 (3) of this subsection, within 60 days of the filing of the appeal, unless the
42 parties agree otherwise or the Commission so orders. Transcripts of depositions
43 shall be expedited if necessary and paid pursuant to rules promulgated by the
44 Commission related to depositions and shall be submitted electronically to the
45 Commission. The Commission shall decide the issue in dispute and make
46 findings of fact based upon the preponderance of the evidence in view of the
47 entire record. The award, together with a statement of the findings of fact,
48 rulings of law, and other matters pertinent to the questions at issue shall be filed
49 with the record of the proceedings within 15 days of the close of the hearing
50 record, and a copy of the award shall immediately be sent to the parties. Either
51 party may appeal the decision of the Deputy Commissioner pursuant to

1 G.S. 97-84 to the Full Commission pursuant to G.S. 97-85. The decision of the
2 Deputy Commissioner pursuant to G.S. 97-84 shall not be stayed during the
3 pendency of an appeal except under those circumstances set out in subdivision
4 (4) of this subsection. A motion to stay the decision of the Deputy
5 Commissioner pursuant to G.S. 97-84 shall be directed to the Chair of the
6 Commission. The Full Commission shall render a decision on the appeal of the
7 Deputy Commissioner's decision on the motion within 60 days of the filing of
8 the notice of appeal.

9 (3) An emergency medical motion filed by either party shall be filed with the
10 Office of the Chief Deputy Commissioner. The Chief Deputy or Chief Deputy's
11 designee shall rule on the motion within five days of receipt unless the Chief
12 Deputy or Chief Deputy's designee determines that the motion is not an
13 emergency, in which case the motion shall be referred to the Executive
14 Secretary for an administrative ruling pursuant to subdivision (1) of this
15 subsection. Motions requesting emergency medical relief shall contain all of the
16 following:

- 17 a. An explanation of the medical diagnosis and treatment recommendation
18 of the health care provider that requires emergency attention.
- 19 b. A specific statement detailing the time-sensitive nature of the request to
20 include relevant dates and the potential for adverse consequences to the
21 movant if the recommended relief is not provided emergently.
- 22 c. An explanation of opinions known and in the possession of the movant
23 of additional medical or other relevant experts, independent medical
24 examiners, and second opinion examiners.
- 25 d. Documentation known and in the possession of the movant in support of
26 the request, including relevant medical records.
- 27 e. A representation that informal means of resolving the issue have been
28 attempted.

29 Either party may appeal the decision of the Chief Deputy or the Chief Deputy's
30 designee on the emergency motion by requesting an expedited formal hearing
31 pursuant to G.S. 97-84 and subdivision (2) of this subsection to appeal the
32 administrative decision of the Chief Deputy or the Chief Deputy's designee on
33 the emergency motion. Within five days of the filing of a request for an
34 expedited formal hearing pursuant to G.S. 97-84 and subdivision (2) of this
35 subsection, the Commission shall assign a Deputy Commissioner to conduct the
36 formal hearing. The decision of the Chief Deputy or the Chief Deputy's
37 designee shall not be stayed during the pendency of an appeal of the
38 administrative decision except under those circumstances set out in subdivision
39 (4) of this subsection. Any motion to stay shall be filed with the Deputy
40 Commissioner scheduled to conduct the expedited formal hearing pursuant to
41 G.S. 97-84 and subdivision (2) of this subsection. Either party may appeal the
42 decision of the Deputy Commissioner pursuant to G.S. 97-84 to the Full
43 Commission pursuant to G.S. 97-85. If so, the decision of the Deputy
44 Commissioner shall not be stayed during the pendency of an appeal except
45 under those circumstances set out in subdivision (4) of this subsection. Any
46 motion to stay the decision of the Deputy Commissioner pursuant to G.S. 97-84
47 shall be directed to the Chair of the Commission. The Full Commission shall
48 render a decision on the appeal of the Deputy Commissioner's decision on the
49 motion within 60 days of the filing of the notice of appeal.

50 (4) The Commission shall consider, among other factors, all of the following when
51 determining whether to grant a motion to stay filed pursuant to this subsection:

- a. Whether there would be immediate and irreparable injury, harm, loss, or damage to either party.
 - b. The nature and cost of the medical relief sought.
 - c. The risk for further injury or disability to the employee inherent in the treatment or its delay.
 - d. Whether it has been recommended by an authorized physician.
 - e. Whether alternative therapeutic modalities are available and reasonable.
- (5) If the Commission determines that any party has acted unreasonably by initiating or objecting to a motion filed pursuant to this section, the Commission may assess costs associated with any proceeding, including any reasonable attorneys' fees and deposition costs, against the offending party."

SECTION 8. The catch line of G.S. 108A-70.21 reads as rewritten:

"§ 108A-70.21. Program eligibility; benefits; enrollment fee and other cost-sharing; coverage from private plans; ~~purchase of extended coverage plans.~~"

SECTION 9. G.S. 120-4.16(b) reads as rewritten:

"(b) Purchase of Service Credits Through Rollover Contributions From Certain Other Plans. – Notwithstanding any other provision of this Article, and without regard to any limitations on contributions otherwise set forth in this Article, a member, who is eligible to restore or purchase membership or creditable service pursuant to the provisions of this Article, may purchase such service credits through rollover contributions to the Annuity Savings Fund from (i) an annuity contract described in Section 403(b) of the Internal Revenue Code, (ii) an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, (iii) an individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be includible in gross income, or (iv) a qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code. Notwithstanding the foregoing, the Retirement System shall not accept any amount as a rollover contribution unless such amount is eligible to be rolled over to a qualified trust in accordance with applicable law and the member provides evidence satisfactory to the Retirement System that such amount qualifies for rollover treatment. Unless received by the Retirement System in the form of a direct rollover, the rollover contribution must be paid to the Retirement System on or before the 60th day after the date it was received by the member.

(b1) Purchase of Service Credits Through Plan-to-Plan Transfers. – Notwithstanding any other provision of this Article, and without regard to any limitations on contributions otherwise set forth in this Article, a member, who is eligible to restore or purchase membership or creditable service pursuant to the provisions of this Article, may purchase such service credits through a direct transfer to the Annuity Savings Fund of funds from (i) an annuity contract described in Section 403(b) of the Internal Revenue Code or (ii) an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state."

SECTION 9.1. G.S. 120-57 is repealed.

SECTION 9.2. G.S. 136-41.2(c) reads as rewritten:

"(c) No municipality shall be eligible to receive funds under G.S. 136-41.1 unless it has formally adopted a budget ordinance in substantial compliance with ~~G.S. 160-410.3, G.S. 159-8 and G.S. 159-13,~~ showing revenue received from all sources, and showing that funds have been appropriated for at least two of the following municipal services if the municipality was incorporated with an effective date prior to January 1, 2000, water distribution; sewage collection or disposal; garbage and refuse collection or disposal; fire protection; police protection; street maintenance, construction, or right-of-way acquisition; or street lighting, or at least four of the following municipal services if the municipality was incorporated with an effective date of on or after January 1, 2000: (i) police protection; (ii) fire protection; (iii) solid waste collection or

disposal; (iv) water distribution; (v) street maintenance; (vi) street construction or right-of-way acquisition; (vii) street lighting; and (viii) zoning."

SECTION 9.3. G.S. 143-215.31(a1) reads as rewritten:

"(a1) The owner of a dam classified by the Department as a high-hazard dam or an intermediate-hazard dam shall develop an Emergency Action Plan for the dam as provided in this subsection; subsection:

(1) The owner of the dam shall submit a proposed Emergency Action Plan for the dam within 90 days after the dam is classified as a high-hazard dam or an intermediate-hazard dam to the Department and the Department of Public Safety for their review and approval. The Department and the Department of Public Safety shall approve the Emergency Action Plan if they determine that it complies with the requirements of this subsection and will protect public health, safety, and welfare; the environment; and natural resources.

(2) The Emergency Action Plan shall include, at a minimum, all of the following:

- a. A description of potential emergency conditions that could occur at the dam, including security risks.
- b. A description of actions to be taken in response to an emergency condition at the dam.
- c. Emergency notification procedures to aid in warning and evacuations during an emergency condition at the dam.
- d. A downstream inundation map depicting areas affected by a dam failure and sudden release of the impoundment. A downstream inundation map prepared pursuant to this section does not require preparation by a licensed professional engineer or a person under the responsible charge of a licensed professional engineer unless the dam is associated with a coal combustion residuals surface impoundment, as defined by G.S. 130A-309.201.

(3) The owner of the dam shall update the Emergency Action Plan annually and shall submit it to the Department and the Department of Public Safety for their review and approval within one year of the prior approval.

(4) The Department shall provide a copy of the Emergency Action Plan to the regional offices of the Department that might respond to an emergency condition at the dam.

(5) The Department of Public Safety shall provide a copy of the Emergency Action Plan to all local emergency management agencies that might respond to an emergency condition at the dam.

(6) Information included in an Emergency Action Plan that constitutes sensitive public security information, as provided in G.S. 132-1.7, shall be maintained as confidential information and shall not be subject to disclosure under the Public Records Act. For purposes of this section, "sensitive public security information" shall include Critical Energy Infrastructure Information protected from disclosure under rules adopted by the Federal Energy Regulatory Commission in 18 C.F.R. § 333.112; 18 C.F.R. § 388.112."

SECTION 9.4. G.S. 143B-168.5 reads as rewritten:

"§ 143B-168.5. Child Care – special unit.

There is established within the Department of Health and Human ~~Services~~ Services, Division of Child Development and Early Education, a special unit to deal primarily with violations involving child abuse and neglect in child care arrangements. The Child Care Commission shall make rules for the investigation of reports of child abuse or neglect and for administrative action when child abuse or neglect is substantiated, pursuant to G.S. 110-88(6a), 110-105, ~~and 110-105.2,~~ 110-105.3, 110-105.4, 110-105.5, and 110-105.6."

SECTION 9.5. G.S. 143B-931(b) reads as rewritten:

"(b) The Department of Public Safety may provide a criminal history record check to the board of directors of a regional school of a person who is employed at a regional school or of a person who has applied for employment at a regional school if the employee or applicant consents to the record check. The Department may also provide a criminal history record check of school personnel as defined in ~~G.S. 115C-238.56N~~ G.S. 115C-238.73 by fingerprint card to the board of directors of the regional school from the National Repositories of Criminal Histories, in accordance with ~~G.S. 115C-238.56N~~ G.S. 115C-238.73. The information shall be kept confidential by the board of directors of the regional school as provided in ~~G.S. 115C-238.56N~~ G.S. 115C-238.73."

SECTION 9.6. G.S. 143C-6-4(b) reads as rewritten:

"(b) Budget Adjustments. – Notwithstanding the provisions of G.S. 143C-6-1, a State agency may, with approval of the Director of the Budget, spend more than was appropriated in the certified budget by adjusting the authorized budget for all of the following:

- (1) Line items within programs. – An object or line item within a purpose or program so long as the total amount expended for the purpose or program is no more than was authorized in the certified budget for the purpose or program.
- (2) Responses to extraordinary events. – A purpose or program if the overexpenditure of the purpose or program is:
 - a. Required by a court or Industrial Commission order;
 - b. Authorized under ~~G.S. 166A-19.40(a)~~ G.S. 166A-19.40(a)(1) and (c) of the North Carolina Emergency Management Act; or
 - c. Required to call out the North Carolina National Guard.
- (3) Responses to unforeseen circumstances. – A purpose or program not subject to the provisions of subdivision (b)(2) of this subsection, if each of the following conditions is satisfied:
 - a. The overexpenditure is required to continue the purpose or programs due to complications or changes in circumstances that could not have been foreseen when the budget for the fiscal period was enacted.
 - b. The scope of the purpose or program is not increased.
 - c. The overexpenditure is authorized on a one-time nonrecurring basis for one year only, unless the overexpenditure is the result of (i) salary adjustments authorized by law or (ii) the establishment of time-limited positions funded with agency receipts."

SECTION 10. G.S. 146-9(b) reads as rewritten:

"(b) Notwithstanding subsection (a) of this section, or any other provision of law, prior to expiration of a lease of mineral deposits in State lands, the Department of Administration or other entity designated by the Department shall solicit competitive bids for lease of such mineral deposits, which shall include a process for upset bids as described in this subsection. An upset bid is an increased or raised bid whereby a person offers to lease such mineral rights for an amount exceeding the highest bid received in response to the initial solicitation for competitive bids, or the last upset bid, as applicable, by a minimum of five percent (5%). The process shall provide that the Department or other designated entity that issued the solicitation for competitive bids shall issue a notice of high bid to the person submitting the highest bid in response to the initial solicitation for competitive bids, or the person submitting the last upset bid, as applicable, and any other bidders that have submitted a bid in an amount seventy-five percent (75%) or more of the highest bid received in response to the initial solicitation for competitive bids, or the last upset bid, as applicable, of the highest bid received at that point within 10 days of the closure of the bidding period, as provided in the solicitation for competitive bids, through notice delivered by any means authorized under G.S. 1A-1, Rule 4. Thereafter, an upset bid may be made by delivering to the Department or other designated entity, subject to all of the following requirements and conditions:

- 1 ...
2 (4) When an upset bid is made as provided in this subsection, the Department or
3 other designated entity shall notify ~~to~~ the highest prior bidder, and any other
4 bidders that have submitted a bid in an amount seventy-five percent (75%) or
5 more of the current high bid received in response to the initial solicitation for
6 competitive bids, or the last upset bid, as applicable.

7"

8 **SECTION 10.1.** G.S. 147-12(a) reads as rewritten:

9 "(a) In addition to the powers and duties prescribed by the Constitution, the Governor has
10 the powers and duties prescribed in this and the following sections:

- 11 (1) To supervise the official conduct of all executive and ministerial officers; and
12 when the Governor deems it advisable to visit all State institutions for the
13 purpose of inquiring into the management and needs of the same.

14 ...

- 15 (12) To name and locate State government buildings, monuments, memorials, and
16 improvements, as provided by ~~G.S. 143B-373(1)~~ G.S. 143B-373(a)(1).

17"

18 **SECTION 11.** G.S. 153A-340(h) reads as rewritten:

19 "(h) As provided in this subsection, counties may adopt temporary moratoria on any ~~county~~
20 ~~development approval required by law~~. county development approval required by law, except for
21 the purpose of developing and adopting new or amended plans or ordinances as to residential uses.
22 The duration of any moratorium shall be reasonable in light of the specific conditions that warrant
23 imposition of the moratorium and may not exceed the period of time necessary to correct, modify,
24 or resolve such conditions. Except in cases of imminent and substantial threat to public health or
25 safety, before adopting an ordinance imposing a development moratorium with a duration of 60
26 days or any shorter period, the board of commissioners shall hold a public hearing and shall
27 publish a notice of the hearing in a newspaper having general circulation in the area not less than
28 seven days before the date set for the hearing. A development moratorium with a duration of 61
29 days or longer, and any extension of a moratorium so that the total duration is 61 days or longer, is
30 subject to the notice and hearing requirements of G.S. 153A-323. Absent an imminent threat to
31 public health or safety, a development moratorium adopted pursuant to this section shall not apply
32 to any project for which a valid building permit issued pursuant to G.S. 153A-357 is outstanding,
33 to any project for which a conditional use permit application or special use permit application has
34 been accepted, to development set forth in a site-specific or phased development plan approved
35 pursuant to G.S. 153A-344.1, to development for which substantial expenditures have already
36 been made in good faith reliance on a prior valid administrative or quasi-judicial permit or
37 approval, or to preliminary or final subdivision plats that have been accepted for review by the
38 county prior to the call for public hearing to adopt the moratorium. Any preliminary subdivision
39 plat accepted for review by the county prior to the call for public hearing, if subsequently
40 approved, shall be allowed to proceed to final plat approval without being subject to the
41 moratorium.

42 Any ordinance establishing a development moratorium must expressly include at the time of
43 adoption each of the following:

- 44 (1) A clear statement of the problems or conditions necessitating the moratorium
45 and what courses of action, alternative to a moratorium, were considered by the
46 county and why those alternative courses of action were not deemed adequate.
47 (2) A clear statement of the development approvals subject to the moratorium and
48 how a moratorium on those approvals will address the problems or conditions
49 leading to imposition of the moratorium.

- (3) An express date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.
- (4) A clear statement of the actions, and the schedule for those actions, proposed to be taken by the county during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.

No moratorium may be subsequently renewed or extended for any additional period unless the city shall have taken all reasonable and feasible steps proposed to be taken by the county in its ordinance establishing the moratorium to address the problems or conditions leading to imposition of the moratorium and unless new facts and conditions warrant an extension. Any ordinance renewing or extending a development moratorium must expressly include, at the time of adoption, the findings set forth in subdivisions (1) through (4) of this subsection, including what new facts or conditions warrant the extension.

Any person aggrieved by the imposition of a moratorium on development approvals required by law may apply to the appropriate division of the General Court of Justice for an order enjoining the enforcement of the moratorium, and the court shall have jurisdiction to issue that order. Actions brought pursuant to this section shall be set down for immediate hearing, and subsequent proceedings in those actions shall be accorded priority by the trial and appellate courts. In any such action, the county shall have the burden of showing compliance with the procedural requirements of this subsection."

SECTION 12. G.S. 160A-332(a) reads as rewritten:

"(a) The suppliers of electric service inside the corporate limits of any city in which a secondary supplier was furnishing electric service on the determination ~~date (as defined in G.S. 160A-331(1))~~ date, as defined in G.S. 160A-331(1b), shall have rights and be subject to restrictions as follows:

...."

SECTION 13.(a) G.S. 160A-372(e) reads as rewritten:

"(e) The ordinance may provide that a developer may provide funds to the city whereby the city may acquire recreational land or areas to serve the development or subdivision, including the purchase of land that may be used to serve more than one subdivision or development within the immediate area. All funds received by the city pursuant to this ~~paragraph [subsection]~~ subsection shall be used only for the acquisition or development of recreation, park, or open space sites. Any formula enacted to determine the amount of funds that are to be provided under this ~~paragraph [subsection]~~ subsection shall be based on the value of the development or subdivision for property tax purposes. The ordinance may allow a combination or partial payment of funds and partial dedication of land when the governing body of the city determines that this combination is in the best interests of the citizens of the area to be served."

SECTION 13.(b) G.S. 160A-372(f) reads as rewritten:

"(f) The ordinance may provide that in lieu of required street construction, a developer may be required to provide funds that the city may use for the construction of roads to serve the occupants, residents, or invitees of the subdivision or development and these funds may be used for roads which serve more than one subdivision or development within the area. All funds received by the city pursuant to this ~~paragraph [subsection]~~ subsection shall be used only for development of roads, including design, land acquisition, and construction. However, a city may undertake these activities in conjunction with the Department of Transportation under an agreement between the city and the Department of Transportation. Any formula adopted to determine the amount of funds the developer is to pay in lieu of required street construction shall be based on the trips generated from the subdivision or development. The ordinance may require a combination of partial payment of funds and partial dedication of constructed streets when the governing body of the city determines that a combination is in the best interests of the citizens of the area to be served."

1 **SECTION 14.(a)** Section 7.1 of S.L. 2014-107 reads as rewritten:

2 "SECTION 7.1. Section 5.1 of this act applies to all trusts created before, on, or after the
3 effective date of this act. Except as otherwise provided, this act is effective when it becomes law."

4 **SECTION 14.(b)** This section becomes retroactively effective August 6, 2014.

5 **SECTION 14.1.** The introductory language of Section 54.5(b) of S.L. 2015-264 reads
6 as rewritten:

7 "SECTION 54.5.(b) ~~Section 32.2(e)~~ Section 32.3(c) of S.L. 2015-241 reads as rewritten:"

8
9 **PART II. ADDITIONAL TECHNICAL AND OTHER AMENDMENTS**

10 **SECTION 15.(a)** G.S. 1A-1, Rule 22, reads as rewritten:

11 **"Rule 22. Interpleader.**

12 (a) Persons having claims against the plaintiff may be joined as defendants and required to
13 interplead when their claims expose or may expose the plaintiff to double or multiple liability. It is
14 not ground for objection to the joinder that the claims of the several claimants or the titles on
15 which their claims depend do not have a common origin or are not identical but are adverse to and
16 independent of one another, or that the plaintiff avers that he is not liable in whole or in part to any
17 or all of the claimants. A defendant exposed to similar liability may obtain such interpleader by
18 way of crossclaim or counterclaim. The provisions of this rule supplement and do not in any way
19 limit the joinder of parties permitted in Rule 20.

20 (b) Where funds are subject to competing claims by parties to the action, the court may
21 order the party in possession of the funds either to deposit the funds in an interest bearing account
22 in a ~~bank, savings and loan, or trust company licensed to do business in this State~~ federally insured
23 depository institution or a trust institution authorized to do business in this State or to deposit the
24 funds with the clerk. If the funds are deposited in a ~~bank, savings and loan, or trust company,~~
25 federally insured depository institution or a trust institution authorized to do business in this State,
26 the court shall specify the type of interest bearing account to be used. Funds deposited with the
27 clerk shall be invested or deposited as provided in G.S. 7A-112 and G.S. 7A-112.1. Upon
28 determination of the action, the judgment shall provide for disbursement of the principal and
29 interest earned on the funds while so deposited."

30 **SECTION 15.(b)** G.S. 20-63.01 reads as rewritten:

31 **"§ 20-63.01. Bonds required for commission contractors.**

32 (a) A guaranty bond is required for each commission contractor that is not a governmental
33 subdivision of this State that is granted a contract to issue license plates or conduct business
34 pursuant to G.S. 20-63. Provided, however, a commission contractor that is unable to secure a
35 bond may, with the consent of the Division, provide an alternative to a guaranty bond, as provided
36 in subsection (c) of this section.

37 The Division may revoke, with cause, a contract with a commission contractor that fails to
38 maintain a bond or an alternative to a bond, pursuant to this section.

39 (b) (1) When application is made for a contract or contract renewal, the applicant shall
40 file a guaranty bond with the clerk of the superior court and/or the register of
41 deeds of the county in which the commission contractor will be located. The
42 bond shall be in favor of the Division. The bond shall be executed by the
43 applicant as principal and by a bonding company authorized to do business in
44 this State. The bond shall be conditioned to provide indemnification to the
45 Division for a loss of revenue for any reason, including bankruptcy, employee
46 embezzlement or theft, foreclosure, or ceasing to operate.

47 (2) The bond shall be in an amount determined by the Division to be adequate to
48 provide indemnification to the Division under the terms of the bond. The bond
49 amount shall be at least one hundred thousand dollars (\$100,000).

50 (3) The bond shall remain in force and effect until cancelled by the guarantor. The
51 guarantor may cancel the bond upon 30 days' notice to the Division.

- 1 Cancellation of the bond shall not affect any liability incurred or accrued prior
2 to the termination of the notice period.
- 3 (4) The Division may be able to negotiate bonds for contractors who qualify for
4 bonds as a group under favorable rates or circumstances. If so, the Division
5 may require those contractors who can qualify for the group bond to obtain
6 their bond as part of a group of contractors. The Division may deduct the
7 premiums for any bonds it may be able to negotiate at group rates from the
8 commissioned contractors' compensation.
- 9 (c) An applicant that is unable to secure a bond may seek a waiver of the guaranty bond
10 from the Division and approval of one of the guaranty bond alternatives set forth in this
11 subsection. With the approval of the Division, an applicant may file with the clerk of the superior
12 court and/or the register of deeds of the county in which the commission contractor will be
13 located, in lieu of a bond:
- 14 (1) An assignment of a savings account in an amount equal to the bond required (i)
15 which is in a form acceptable to the Division; (ii) which is executed by the
16 applicant; (iii) which is executed by a ~~state or federal savings and loan~~
17 ~~association, state bank, or national bank that is doing business in North~~
18 ~~Carolina and whose accounts are insured by a federal depositors corporation;~~
19 federally insured depository institution lawfully doing business in this State;
20 and (iv) for which access to the account in favor of the State of North Carolina
21 is subject to the same conditions as for a bond in subsection (b) of this section.
- 22 (2) A certificate of deposit (i) which is executed by a ~~state or federal savings and~~
23 ~~loan association, state bank, or national bank which is doing business in North~~
24 ~~Carolina and whose accounts are insured by a federal depositors corporation;~~
25 federally insured depository institution lawfully doing business in this State; (ii)
26 which is either payable to the State of North Carolina, unrestrictively endorsed
27 to the Division of Motor Vehicles; in the case of a negotiable certificate of
28 deposit, is unrestrictively endorsed to the Division of Motor Vehicles; or in the
29 case of a nonnegotiable certificate of deposit, is assigned to the Division of
30 Motor Vehicles in a form satisfactory to the Division; and (iii) for which access
31 to the certificate of deposit in favor of the State of North Carolina is subject to
32 the same conditions as for a bond in subsection (b) of this section."

33 **SECTION 15.(c)** G.S. 85B-7.1(a) reads as rewritten:

34 "(a) Each licensee who does not disburse all funds to the seller on auction day shall
35 maintain a trust or escrow account and shall deposit in the account all funds that are received for
36 the benefit of another person and are not disbursed to the seller on auction day. The licensee shall
37 deposit funds that are not disbursed on auction day with ~~an insured bank or savings and loan~~
38 ~~association~~ a federally insured depository institution located in North Carolina. At or before the
39 time of all final settlements, the auctioneer shall provide the seller or consignor with a settlement
40 statement, which includes a description of all goods sold, the selling price of the goods sold, the
41 net proceeds due to the seller or consignor, the name and address of the person receiving the
42 disbursement, and the amount of the disbursement. All settlement statements shall be signed by
43 the licensee or the licensee's agent and by the person receiving the disbursement."

44 **SECTION 15.(d)** G.S. 85B-8 reads as rewritten:

45 **"§ 85B-8. Prohibited acts; assessment of civil penalty; denial, suspension, or revocation of**
46 **license.**

47 (a) The following shall be grounds for the assessment of a civil penalty in accordance with
48 G.S. 85B-3.1(b) or the denial, suspension, or revocation of an auctioneer, auctioneer apprentice, or
49 auction firm license:

50 ...

- 1 (7) Commingling the funds or property of a client with the licensee's own or failing
2 to maintain and deposit in a trust or escrow account in ~~an insured bank or~~
3 ~~savings and loan association~~ a federally insured depository institution located in
4 North Carolina funds received for another person through sale at auction.

5"

6 **SECTION 15.(e)** G.S. 86A-22 reads as rewritten:

7 **"§ 86A-22. Licensing and regulating barber schools and colleges.**

8 The North Carolina State Board of Barber Examiners may approve barber schools or colleges
9 in the State, and may prescribe rules and regulations for their operation. The Board shall adopt
10 rules establishing criteria for barber schools and colleges to maintain their accreditation. No barber
11 school or college shall be approved by the Board unless the school or college meets all of the
12 following requirements:

13 ...

- 14 (7) a. Each school shall provide a guaranty bond unless the school has already
15 provided a bond or an alternative to a bond under G.S. 115D-95.

16 The North Carolina State Board of Barber Examiners may revoke
17 the approval of a school that fails to maintain a bond or an alternative to
18 a bond pursuant to this subdivision or G.S. 115D-95.

- 19 b. When application is made for approval or renewal of approval, the
20 applicant shall file a guaranty bond with the clerk of the superior court
21 of the county in which the school will be located. The bond shall be in
22 favor of the students. The bond shall be executed by the applicant as
23 principal and by a bonding company authorized to do business in this
24 State. The bond shall be conditioned to provide indemnification to any
25 student, or his parent or guardian, who has suffered a loss of tuition or
26 any fees by reason of the failure of the school to offer or complete
27 student instruction, academic services, or other goods and services
28 related to course enrollment for any reason, including the suspension,
29 revocation, or nonrenewal of a school's approval, bankruptcy,
30 foreclosure, or the school ceasing to operate.

31 The bond shall be in an amount determined by the Board to be
32 adequate to provide indemnification to any student, or his parent or
33 guardian, under the terms of the bond. The bond amount for a school
34 shall be at least equal to the maximum amount of prepaid tuition held at
35 any time during the last fiscal year by the school. The bond amount
36 shall also be at least ten thousand dollars (\$10,000).

37 Each application for approval shall include a letter signed by an
38 authorized representative of the school showing in detail the
39 calculations made and the method of computing the amount of the bond
40 pursuant to this subpart and the rules of the Board. If the Board finds
41 that the calculations made and the method of computing the amount of
42 the bond are inaccurate or that the amount of the bond is otherwise
43 inadequate to provide indemnification under the terms of the bond, the
44 Board may require the applicant to provide an additional bond.

45 The bond shall remain in force and effect until cancelled by the
46 guarantor. The guarantor may cancel the bond upon 30 days notice to
47 the Board. Cancellation of the bond shall not affect any liability
48 incurred or accrued prior to the termination of the notice period.

- 49 c. An applicant that is unable to secure a bond may seek a waiver of the
50 guaranty bond from the Board and approval of one of the guaranty bond
51 alternatives set forth in this subpart. With the approval of the Board, an

applicant may file with the clerk of the superior court of the county in which the school will be located, in lieu of a bond:

1. An assignment of a savings account in an amount equal to the bond required (i) which is in a form acceptable to the Board; (ii) which is executed by the applicant; and (iii) which is executed by a ~~state or federal savings and loan association, state bank, or national bank, that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation;~~ federally insured depository institution lawfully doing business in this State; and (iv) for which access to the account in favor of the State of North Carolina is subject to the same conditions as for a bond in subpart b. above.
2. A certificate of deposit (i) which is executed by a ~~state or federal savings and loan association, state bank, or national bank, which is doing business in North Carolina and whose accounts are insured by a federal depositors corporation;~~ federally insured depository institution lawfully doing business in this State; and (ii) which is either payable to the State of North Carolina, unrestrictively endorsed to the Board; in the case of a negotiable certificate of deposit, is unrestrictively endorsed to the Board; or in the case of a nonnegotiable certificate of deposit, is assigned to the Board in a form satisfactory to the Board; and (iii) for which access to the certificate of deposit in favor of the State of North Carolina is subject to the same conditions as for a bond in subpart b. above."

SECTION 15.(f) G.S. 88B-17 reads as rewritten:

"§ 88B-17. Bond required for private cosmetic art schools.

(a) Each private cosmetic art school shall provide a guaranty bond unless the school has already provided a bond or an alternative to a bond under G.S. 115D-95. The Board may restrict, suspend, revoke, or refuse to renew or reinstate the license of a school that fails to maintain a bond or an alternative to a bond pursuant to this section or G.S. 115D-95.

(b) (1) The applicant shall file the guaranty bond with the clerk of superior court in the county in which the school is located. The bond shall be in favor of the students. The bond shall be executed by the applicant as principal and by a bonding company authorized to do business in this State. The bond shall be conditioned to provide indemnification to any student or the student's parent or guardian who has suffered loss of tuition or any fees by reason of the failure of the school to offer or complete student instruction, academic services, or other goods and services as related to course enrollment for any reason, including suspension, revocation, or nonrenewal of a school's approval, bankruptcy, foreclosure, or the school's ceasing to operate.

(2) The bond amount shall be at least equal to the maximum amount of prepaid tuition held at any time by the school during the last fiscal year, but in no case shall be less than ten thousand dollars (\$10,000). Each application for license or license renewal shall include a letter signed by an authorized representative of the school showing the calculations made and the method of computing the amount of the bond in accordance with rules prescribed by the Board. If the Board finds that the calculations made and the method of computing the amount of the bond are inaccurate or that the amount of the bond is otherwise inadequate to provide indemnification under the terms of the bond, the Board may require the applicant to provide an additional bond.

- (3) The bond shall remain in force and effect until canceled by the guarantor. The guarantor may cancel the bond upon 30 days' notice to the Board. Cancellation of the bond shall not affect any liability incurred or accrued prior to the termination of the notice period.

(c) An applicant who is unable to secure a bond may seek from the Board a waiver of the guaranty bond requirement and approval of one of the guaranty bond alternatives set forth in this subsection. With the approval of the Board, an applicant may file one of the following instead of a bond with the clerk of court in the county in which the school is located:

- (1) An assignment of a savings account in an amount equal to the bond required that is in a form acceptable to the Board, and is executed by the applicant and a ~~state or federal savings and loan association, state bank, or national bank that is doing business in this State and whose accounts are insured by a federal depositor's corporation,~~ federally insured depository institution lawfully doing business in this State, and access to the account is subject to the same conditions as those for a bond in subsection (b) of this section.
- (2) A certificate of deposit that is executed by a ~~state or federal savings and loan association, state bank, or national bank that is doing business in this State and whose accounts are insured by a federal depositor's corporation,~~ federally insured depository institution lawfully doing business in this State and access to the certificate of deposit is subject to the same conditions as those for a bond in subsection (b) of this section."

SECTION 15.(g) G.S. 90-171.55 reads as rewritten:

"§ 90-171.55. Nurses Aides Registry.

(a) The Board of Nursing, established pursuant to G.S. 90-171.21, shall establish a Nurses Aides Registry for persons functioning as nurses aides regardless of title. The Board shall consider those Level I nurses aides employed in State licensed or Medicare/Medicaid certified nursing facilities who meet applicable State and federal registry requirements as adopted by the North Carolina Medical Care Commission as having fulfilled the training and registry requirements of the Board. The Board may not charge an annual fee to a nurse aide I registry applicant. The Board may charge an annual fee of twelve dollars (\$12.00) for each nurse aide II registry applicant. The Board shall adopt rules to ensure that whenever possible, the fee is collected through the employer or prospective employer of the registry applicant. Fees collected may be used by the Board in administering the registry. The Board's authority granted by this Article shall not conflict with the authority of the Medical Care Commission.

- (b) (1) Each nurses aide training program, except for those operated by (i) institutions under the Board of Governors of The University of North Carolina, (ii) institutions of the North Carolina Community College System, (iii) public high schools, and (iv) hospital authorities acting pursuant to G.S. 131E-23(31), shall provide a guaranty bond unless the program has already provided a bond or an alternative to a bond under G.S. 115D-95. The Board of Nursing may revoke the approval of a program that fails to maintain a bond or an alternative to a bond pursuant to this subsection or G.S. 115D-95.
- (2) When application is made for approval or renewal of approval, the applicant shall file a guaranty bond with the clerk of the superior court of the county in which the program will be located. The bond shall be in favor of the students. The bond shall be executed by the applicant as principal and by a bonding company authorized to do business in this State. The bond shall be conditioned to provide indemnification to any student, or his parent or guardian, who has suffered a loss of tuition or any fees by reason of the failure of the program to offer or complete student instruction, academic services, or other goods and services related to course enrollment for any reason, including the suspension,

1 revocation, or nonrenewal of a program's approval, bankruptcy, foreclosure, or
2 the program ceasing to operate.

3 The bond shall be in an amount determined by the Board to be adequate to
4 provide indemnification to any student, or his parent or guardian, under the
5 terms of the bond. The bond amount for a program shall be at least equal to the
6 maximum amount of prepaid tuition held at any time during the last fiscal year
7 by the program. The bond amount shall also be at least ten thousand dollars
8 (\$10,000).

9 Each application for a license shall include a letter signed by an authorized
10 representative of the program showing in detail the calculations made and the
11 method of computing the amount of the bond pursuant to this subdivision and
12 the rules of the Board. If the Board finds that the calculations made and the
13 method of computing the amount of the bond are inaccurate or that the amount
14 of the bond is otherwise inadequate to provide indemnification under the terms
15 of the bond, the Board may require the applicant to provide an additional bond.

16 The bond shall remain in force and effect until cancelled by the guarantor.
17 The guarantor may cancel the bond upon 30 days notice to the Board.
18 Cancellation of the bond shall not affect any liability incurred or accrued prior
19 to the termination of the notice period.

20 (3) An applicant that is unable to secure a bond may seek a waiver of the guaranty
21 bond from the Board and approval of one of the guaranty bond alternatives set
22 forth in this subdivision. With the approval of the Board, an applicant may file
23 with the clerk of the superior court of the county in which the program will be
24 located, in lieu of a bond:

25 a. An assignment of a savings account in an amount equal to the bond
26 required (i) which is in a form acceptable to the Board; (ii) which is
27 executed by the applicant; and (iii) which is executed by a ~~state or~~
28 ~~federal savings and loan association, state bank, or national bank, that is~~
29 ~~doing business in North Carolina and whose accounts are insured by a~~
30 ~~federal depositories corporation; federally insured depository institution~~
31 lawfully doing business in this State; and (iv) for which access to the
32 account in favor of the State of North Carolina is subject to the same
33 conditions as for a bond in subdivision (2) of this subsection.

34 b. A certificate of deposit (i) which is executed by a ~~state or federal~~
35 ~~savings and loan association, state bank, or national bank, which is~~
36 ~~doing business in North Carolina and whose accounts are insured by a~~
37 ~~federal depositories corporation; federally insured depository institution~~
38 lawfully doing business in this State; and (ii) which is either payable to
39 the State of North Carolina, unrestrictively endorsed to the Board; in the
40 case of a negotiable certificate of deposit, is unrestrictively endorsed to
41 the Board; or in the case of a nonnegotiable certificate of deposit, is
42 assigned to the Board in a form satisfactory to the Board; and (iii) for
43 which access to the certificate of deposit in favor of the State of North
44 Carolina is subject to the same conditions as for a bond in subdivision
45 (2) of this subsection."

46 **SECTION 15.(h)** G.S. 90-210.86 reads as rewritten:

47 **"§ 90-210.86. Deposit or investment of funds of mutual burial associations.**

48 Funds belonging to each mutual burial association over and above the amount determined by
49 the Board of Funeral Service to be necessary for operating capital shall be invested in:

50 (1) Deposits in any ~~bank or trust company in this State.~~ federally insured depository
51 institution or any trust institution authorized to do business in this State.

- 1 (2) Obligations of the United States of America.
2 (3) Obligations of any agency or instrumentality of the United States of America if
3 the payment of interest and principal of such obligations is fully guaranteed by
4 the United States of America.
5 (4) Obligations of the State of North Carolina.
6 (5) Bonds and notes of any North Carolina local government or public authority,
7 subject to such restrictions as the Board of Funeral Service may impose.
8 (6) Shares of or deposits in any savings and loan association organized under the
9 laws of this State and shares of or deposits in any federal savings and loan
10 association having its principal office in this State, provided that any such
11 savings and loan association is insured by the United States of America or any
12 agency thereof or by any mutual deposit guaranty association authorized by the
13 Commissioner of Insurance of North Carolina to do business in North Carolina
14 pursuant to Article 7A of Chapter 54 of the General Statutes.
15 (7) Obligations of the Federal Intermediate Credit Banks, the Federal Home Loan
16 Banks, Fannie Mae, the Banks for Cooperatives, and the Federal Land Banks,
17 maturing no later than 18 months after the date of purchase.

18 Violation of the provisions of this section shall, after hearing, be cause for revocation or
19 suspension of license to operate a mutual burial association."

20 **SECTION 15.(i)** G.S. 93A-3 reads as rewritten:

21 **"§ 93A-3. Commission created; compensation; organization.**

22 ...

23 (b) The provisions of G.S. 93B-5 notwithstanding, members of the Commission shall
24 receive as compensation for each day spent on work for the Commission a per diem in an amount
25 established by the Commission by rule, and mileage reimbursement for transportation by privately
26 owned automobile at the business standard mileage rate set by the Internal Revenue Service per
27 mile of travel along with actual cost of tolls paid. The total expense of the administration of this
28 Chapter shall not exceed the total income therefrom; and none of the expenses of said Commission
29 or the compensation or expenses of any office thereof or any employee shall ever be paid or
30 payable out of the treasury of the State of North Carolina; and neither the Commission nor any
31 officer or employee thereof shall have any power or authority to make or incur any expense, debt
32 or other financial obligation binding upon the State of North Carolina. After all expenses of
33 operation, the Commission may set aside an expense reserve each year. The Commission may
34 deposit moneys in accounts, certificates of deposit, or time deposits as the Commission may
35 approve, in any ~~bank, savings and loan association, or trust company.~~ federally insured depository
36 institution or any trust institution authorized to do business in this State. Moneys also may be
37 invested in the same classes of securities referenced in G.S. 159-30(c).

38"

39 **SECTION 15.(j)** G.S. 93A-42 reads as rewritten:

40 **"§ 93A-42. Time shares deemed real estate.**

41 ...

42 (d) The independent escrow agent provided by G.S. 93A-42(c)(2) shall deposit and
43 maintain the purchaser's payments in an insured trust or escrow account in a ~~bank or savings and~~
44 ~~loan association located in this State.~~ federally insured depository institution lawfully doing
45 business in this State. The trust or escrow account may be interest-bearing and the interest earned
46 shall belong to the developer, if agreed upon in writing by the purchaser; provided, however, if the
47 time share instrument is not recorded within the time periods specified in this section, then the
48 interest earned shall belong to the purchaser. The independent escrow agent shall return all
49 payments to the purchaser at the expiration of 180 days following the execution of the contract of
50 sale by the purchaser, unless prior to that time the time share instrument has been recorded.
51 However, if prior to the expiration of 180 days following the execution of the contract of sale, the

1 developer and the purchaser provide their written consent to the independent escrow agent, the
2 developer's obligation to record the time share instrument and the escrow period may be extended
3 for an additional period of 120 days. Upon recordation of the time share instrument, the
4 independent escrow agent shall pay the purchaser's funds to the developer. Upon request by the
5 Commission, the independent escrow agent shall promptly make available to the Commission
6 inspection of records of money held by the independent escrow agent.

7"

8 **SECTION 15.(k)** G.S. 93A-45 reads as rewritten:

9 **"§ 93A-45. Purchaser's right to cancel; escrow; violation.**

10 ...

11 (c) Any payments received by a time share developer or time share salesperson in
12 connection with the sale of the time share shall be immediately deposited by such developer or
13 salesperson in a trust or escrow account in ~~an insured bank or savings and loan association in~~
14 ~~North Carolina~~ a federally insured depository institution lawfully doing business in this State and
15 shall remain in such account for 10 days or cancellation by the purchaser, whichever occurs first.
16 Payments held in such trust or escrow accounts shall be deemed to belong to the purchaser and not
17 the developer. In lieu of such escrow requirements, the Commission shall have the authority to
18 accept, in its discretion, alternative financial assurances adequate to protect the purchaser's interest
19 during the contract cancellation period, including but not limited to a surety bond, corporate bond,
20 cash deposit or irrevocable letter of credit in an amount equal to the escrow requirements.

21"

22 **SECTION 16.(a)** G.S. 20-63.01, as amended by Section 15(b) of this act, reads as
23 rewritten:

24 **"§ 20-63.01. Bonds required for commission contractors.**

25 (a) A guaranty bond is required for each commission contractor that is not a governmental
26 subdivision of this State that is granted a contract to issue license plates or conduct business
27 pursuant to G.S. 20-63. Provided, however, a commission contractor that is unable to secure a
28 bond may, with the consent of the Division, provide an alternative to a guaranty bond, as provided
29 in subsection (c) of this section.

30 The Division may revoke, with cause, a contract with a commission contractor that fails to
31 maintain a bond or an alternative to a bond, pursuant to this section.

- 32 (b) (1) When application is made for a contract or contract renewal, the applicant shall
33 file a guaranty bond with the clerk of the superior court and/or the register of
34 deeds of the county in which the commission contractor will be located. The
35 bond shall be in favor of the Division. The bond shall be executed by the
36 applicant as principal and by a bonding company authorized to do business in
37 this State. The bond shall be conditioned to provide indemnification to the
38 Division for a loss of revenue for any reason, including bankruptcy, employee
39 embezzlement or theft, foreclosure, or ceasing to operate.
- 40 (2) The bond shall be in an amount determined by the Division to be adequate to
41 provide indemnification to the Division under the terms of the bond. The bond
42 amount shall be at least one hundred thousand dollars (\$100,000).
- 43 (3) The bond shall remain in force and effect until cancelled by the guarantor. The
44 guarantor may cancel the bond upon 30 days' notice to the Division.
45 Cancellation of the bond shall not affect any liability incurred or accrued prior
46 to the termination of the notice period.
- 47 (4) The Division may be able to negotiate bonds for contractors who qualify for
48 bonds as a group under favorable rates or circumstances. If so, the Division
49 may require those contractors who can qualify for the group bond to obtain
50 their bond as part of a group of contractors. The Division may deduct the

1 premiums for any bonds it may be able to negotiate at group rates from the
2 commissioned contractors' compensation.

3 (c) An applicant that is unable to secure a bond may seek a waiver of the guaranty bond
4 from the Division and approval of one of the guaranty bond alternatives set forth in this
5 subsection. With the approval of the Division, an applicant may file with the clerk of the superior
6 court and/or the register of deeds of the county in which the commission contractor will be
7 located, in lieu of a bond:

8 (1) An assignment of a savings account in an amount equal to the bond required (i)
9 which is in a form acceptable to the Division; (ii) which is executed by the
10 applicant; (iii) which is executed by a federally insured depository institution
11 ~~lawfully doing business in this State; or a trust institution authorized to do~~
12 ~~business in this State;~~ and (iv) for which access to the account in favor of the
13 State of North Carolina is subject to the same conditions as for a bond in
14 subsection (b) of this section.

15 (2) A certificate of deposit (i) which is executed by a federally insured depository
16 institution ~~lawfully doing business in this State; or a trust institution authorized~~
17 ~~to do business in this State;~~ (ii) which is either payable to the State of North
18 Carolina, unrestrictively endorsed to the Division of Motor Vehicles; in the
19 case of a negotiable certificate of deposit, is unrestrictively endorsed to the
20 Division of Motor Vehicles; or in the case of a nonnegotiable certificate of
21 deposit, is assigned to the Division of Motor Vehicles in a form satisfactory to
22 the Division; and (iii) for which access to the certificate of deposit in favor of
23 the State of North Carolina is subject to the same conditions as for a bond in
24 subsection (b) of this section."

25 **SECTION 16.(b)** G.S. 42-50 reads as rewritten:

26 **"§ 42-50. Deposits from the tenant.**

27 Security deposits from the tenant in residential dwelling units shall be deposited in a trust
28 account with a licensed and federally insured depository institution ~~lawfully doing business in this~~
29 ~~State; or a trust institution authorized to do business in this State,~~ or the landlord may, at ~~his-the~~
30 ~~landlord's~~ option, furnish a bond from an insurance company licensed to do business in North
31 Carolina. The security deposits from the tenant may be held in a trust account outside of the State
32 of North Carolina only if the landlord provides the tenant with an adequate bond in the amount of
33 ~~said-the~~ deposits. The landlord or ~~his-the~~ landlord's agent shall notify the tenant within 30 days
34 after the beginning of the lease term of the name and address of the bank or institution where ~~his~~
35 ~~the tenant's~~ deposit is currently located or the name of the insurance company providing the bond."

36 **SECTION 16.(c)** G.S. 42A-15 reads as rewritten:

37 **"§ 42A-15. Trust account uses.**

38 A landlord or real estate broker may require a tenant to pay all or part of any required rent,
39 security deposit, or other fees permitted by law in advance of the commencement of a tenancy
40 under this Chapter if these payments are expressly authorized in the vacation rental agreement. If
41 the tenant is required to make any advance payments, other than a security deposit, whether the
42 payment is denominated as rent or otherwise, the landlord or real estate broker shall deposit these
43 payments in a trust account in a federally insured depository institution ~~lawfully doing business in~~
44 ~~this State; or a trust institution authorized to do business in this State~~ no later than three banking
45 days after the receipt of these payments. These payments deposited in a trust account shall not
46 earn interest unless the landlord and tenant agree in the vacation rental agreement that the
47 payments may be deposited in an interest-bearing account. The landlord and tenant shall also
48 provide in the agreement to whom the accrued interest shall be disbursed."

49 **SECTION 16.(d)** G.S. 42A-17(a), as amended by Section 7.3 of this act, reads as
50 rewritten:

"(a) A vacation rental agreement shall identify the name and address of the federally insured depository institution or trust institution in which the tenant's security deposit and other advance payments are held in a trust account, and the landlord and real estate broker shall provide the tenant with an accounting of such deposit and payments if the tenant makes a reasonable request for an accounting prior to the tenant's occupancy of the property."

SECTION 16.(e) G.S. 47C-4-110 reads as rewritten:

"§ 47C-4-110. Escrow of deposits.

(a) Any deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to G.S. 47C-4-102(c) shall be immediately deposited in a trust or escrow account in a federally insured depository institution ~~lawfully doing business in this State~~ or a trust institution authorized to do business in this State and shall remain in such account for such period of time as a purchaser is entitled to cancel pursuant to G.S. 47C-4-108 or cancellation by the purchaser thereunder whichever occurs first. Payments held in such trust or escrow accounts shall be deemed to belong to the purchaser and not the seller.

(b) Except as provided in G.S. 47C-4-108, nothing in subsection (a) is intended to preclude the parties to a contract from providing for the use of progress payments by the declarant during construction."

SECTION 16.(f) G.S. 85B-7.1(a), as amended by Section 15(c) of this act, reads as rewritten:

"(a) Each licensee who does not disburse all funds to the seller on auction day shall maintain a trust or escrow account and shall deposit in the account all funds that are received for the benefit of another person and are not disbursed to the seller on auction day. The licensee shall deposit funds that are not disbursed on auction day with a federally insured depository institution ~~located in North Carolina~~ or a trust institution authorized to do business in this State. At or before the time of all final settlements, the auctioneer shall provide the seller or consignor with a settlement statement, which includes a description of all goods sold, the selling price of the goods sold, the net proceeds due to the seller or consignor, the name and address of the person receiving the disbursement, and the amount of the disbursement. All settlement statements shall be signed by the licensee or the licensee's agent and by the person receiving the disbursement."

SECTION 16.(g) G.S. 85B-8, as amended by Section 15(d) of this act, reads as rewritten:

"§ 85B-8. Prohibited acts; assessment of civil penalty; denial, suspension, or revocation of license.

(a) The following shall be grounds for the assessment of a civil penalty in accordance with G.S. 85B-3.1(b) or the denial, suspension, or revocation of an auctioneer, auctioneer apprentice, or auction firm license:

- ...
- (7) Commingling the funds or property of a client with the licensee's own or failing to maintain and deposit in a trust or escrow account in a federally insured depository institution ~~located in North Carolina~~ or a trust institution authorized to do business in this State funds received for another person through sale at auction.

...."

SECTION 16.(h) G.S. 86A-22, as amended by Section 15(e) of this act, reads as rewritten:

"§ 86A-22. Licensing and regulating barber schools and colleges.

The North Carolina State Board of Barber Examiners may approve barber schools or colleges in the State, and may prescribe rules and regulations for their operation. The Board shall adopt rules establishing criteria for barber schools and colleges to maintain their accreditation. No barber

1 school or college shall be approved by the Board unless the school or college meets all of the
2 following requirements:

3 ...
4 (7) a. Each school shall provide a guaranty bond unless the school has already
5 provided a bond or an alternative to a bond under G.S. 115D-95.

6 The North Carolina State Board of Barber Examiners may revoke
7 the approval of a school that fails to maintain a bond or an alternative to
8 a bond pursuant to this subdivision or G.S. 115D-95.

9 b. When application is made for approval or renewal of approval, the
10 applicant shall file a guaranty bond with the clerk of the superior court
11 of the county in which the school will be located. The bond shall be in
12 favor of the students. The bond shall be executed by the applicant as
13 principal and by a bonding company authorized to do business in this
14 State. The bond shall be conditioned to provide indemnification to any
15 student, or his parent or guardian, who has suffered a loss of tuition or
16 any fees by reason of the failure of the school to offer or complete
17 student instruction, academic services, or other goods and services
18 related to course enrollment for any reason, including the suspension,
19 revocation, or nonrenewal of a school's approval, bankruptcy,
20 foreclosure, or the school ceasing to operate.

21 The bond shall be in an amount determined by the Board to be
22 adequate to provide indemnification to any student, or his parent or
23 guardian, under the terms of the bond. The bond amount for a school
24 shall be at least equal to the maximum amount of prepaid tuition held at
25 any time during the last fiscal year by the school. The bond amount
26 shall also be at least ten thousand dollars (\$10,000).

27 Each application for approval shall include a letter signed by an
28 authorized representative of the school showing in detail the
29 calculations made and the method of computing the amount of the bond
30 pursuant to this subpart and the rules of the Board. If the Board finds
31 that the calculations made and the method of computing the amount of
32 the bond are inaccurate or that the amount of the bond is otherwise
33 inadequate to provide indemnification under the terms of the bond, the
34 Board may require the applicant to provide an additional bond.

35 The bond shall remain in force and effect until cancelled by the
36 guarantor. The guarantor may cancel the bond upon 30 days notice to
37 the Board. Cancellation of the bond shall not affect any liability
38 incurred or accrued prior to the termination of the notice period.

39 c. An applicant that is unable to secure a bond may seek a waiver of the
40 guaranty bond from the Board and approval of one of the guaranty bond
41 alternatives set forth in this subpart. With the approval of the Board, an
42 applicant may file with the clerk of the superior court of the county in
43 which the school will be located, in lieu of a bond:

44 1. An assignment of a savings account in an amount equal to the
45 bond required (i) which is in a form acceptable to the Board; (ii)
46 which is executed by the applicant; and (iii) which is executed
47 by a federally insured depository institution ~~lawfully doing~~
48 ~~business in this State; or a trust institution authorized to do~~
49 ~~business in this State;~~ and (iv) for which access to the account in
50 favor of the State of North Carolina is subject to the same
51 conditions as for a bond in subpart b. above.

2. A certificate of deposit (i) which is executed by a federally insured depository institution ~~lawfully doing business in this State; or a trust institution authorized to do business in this State;~~ and (ii) which is either payable to the State of North Carolina, unrestrictively endorsed to the Board; in the case of a negotiable certificate of deposit, is unrestrictively endorsed to the Board; or in the case of a nonnegotiable certificate of deposit, is assigned to the Board in a form satisfactory to the Board; and (iii) for which access to the certificate of deposit in favor of the State of North Carolina is subject to the same conditions as for a bond in subpart b. above."

SECTION 16.(i) G.S. 88B-17, as amended by Section 15(f) of this act, reads as rewritten:

"§ 88B-17. Bond required for private cosmetic art schools.

(a) Each private cosmetic art school shall provide a guaranty bond unless the school has already provided a bond or an alternative to a bond under G.S. 115D-95. The Board may restrict, suspend, revoke, or refuse to renew or reinstate the license of a school that fails to maintain a bond or an alternative to a bond pursuant to this section or G.S. 115D-95.

(b) (1) The applicant shall file the guaranty bond with the clerk of superior court in the county in which the school is located. The bond shall be in favor of the students. The bond shall be executed by the applicant as principal and by a bonding company authorized to do business in this State. The bond shall be conditioned to provide indemnification to any student or the student's parent or guardian who has suffered loss of tuition or any fees by reason of the failure of the school to offer or complete student instruction, academic services, or other goods and services as related to course enrollment for any reason, including suspension, revocation, or nonrenewal of a school's approval, bankruptcy, foreclosure, or the school's ceasing to operate.

(2) The bond amount shall be at least equal to the maximum amount of prepaid tuition held at any time by the school during the last fiscal year, but in no case shall be less than ten thousand dollars (\$10,000). Each application for license or license renewal shall include a letter signed by an authorized representative of the school showing the calculations made and the method of computing the amount of the bond in accordance with rules prescribed by the Board. If the Board finds that the calculations made and the method of computing the amount of the bond are inaccurate or that the amount of the bond is otherwise inadequate to provide indemnification under the terms of the bond, the Board may require the applicant to provide an additional bond.

(3) The bond shall remain in force and effect until canceled by the guarantor. The guarantor may cancel the bond upon 30 days' notice to the Board. Cancellation of the bond shall not affect any liability incurred or accrued prior to the termination of the notice period.

(c) An applicant who is unable to secure a bond may seek from the Board a waiver of the guaranty bond requirement and approval of one of the guaranty bond alternatives set forth in this subsection. With the approval of the Board, an applicant may file one of the following instead of a bond with the clerk of court in the county in which the school is located:

(1) An assignment of a savings account in an amount equal to the bond required that is in a form acceptable to the Board, and is executed by the applicant and a federally insured depository institution ~~lawfully doing business in this State; or a trust institution authorized to do business in this State;~~ and access to the

account is subject to the same conditions as those for a bond in subsection (b) of this section.

- (2) A certificate of deposit that is executed by a federally insured depository institution ~~lawfully doing business in this State or a trust institution authorized to do business in this State~~ and access to the certificate of deposit is subject to the same conditions as those for a bond in subsection (b) of this section."

SECTION 16.(j) G.S. 90-171.55, as amended by Section 15(g) of this act, reads as rewritten:

"§ 90-171.55. Nurses Aides Registry.

(a) The Board of Nursing, established pursuant to G.S. 90-171.21, shall establish a Nurses Aides Registry for persons functioning as nurses aides regardless of title. The Board shall consider those Level I nurses aides employed in State licensed or Medicare/Medicaid certified nursing facilities who meet applicable State and federal registry requirements as adopted by the North Carolina Medical Care Commission as having fulfilled the training and registry requirements of the Board. The Board may not charge an annual fee to a nurse aide I registry applicant. The Board may charge an annual fee of twelve dollars (\$12.00) for each nurse aide II registry applicant. The Board shall adopt rules to ensure that whenever possible, the fee is collected through the employer or prospective employer of the registry applicant. Fees collected may be used by the Board in administering the registry. The Board's authority granted by this Article shall not conflict with the authority of the Medical Care Commission.

- (b) (1) Each nurses aide training program, except for those operated by (i) institutions under the Board of Governors of The University of North Carolina, (ii) institutions of the North Carolina Community College System, (iii) public high schools, and (iv) hospital authorities acting pursuant to G.S. 131E-23(31), shall provide a guaranty bond unless the program has already provided a bond or an alternative to a bond under G.S. 115D-95. The Board of Nursing may revoke the approval of a program that fails to maintain a bond or an alternative to a bond pursuant to this subsection or G.S. 115D-95.

- (2) When application is made for approval or renewal of approval, the applicant shall file a guaranty bond with the clerk of the superior court of the county in which the program will be located. The bond shall be in favor of the students. The bond shall be executed by the applicant as principal and by a bonding company authorized to do business in this State. The bond shall be conditioned to provide indemnification to any student, or his parent or guardian, who has suffered a loss of tuition or any fees by reason of the failure of the program to offer or complete student instruction, academic services, or other goods and services related to course enrollment for any reason, including the suspension, revocation, or nonrenewal of a program's approval, bankruptcy, foreclosure, or the program ceasing to operate.

The bond shall be in an amount determined by the Board to be adequate to provide indemnification to any student, or his parent or guardian, under the terms of the bond. The bond amount for a program shall be at least equal to the maximum amount of prepaid tuition held at any time during the last fiscal year by the program. The bond amount shall also be at least ten thousand dollars (\$10,000).

Each application for a license shall include a letter signed by an authorized representative of the program showing in detail the calculations made and the method of computing the amount of the bond pursuant to this subdivision and the rules of the Board. If the Board finds that the calculations made and the method of computing the amount of the bond are inaccurate or that the amount

of the bond is otherwise inadequate to provide indemnification under the terms of the bond, the Board may require the applicant to provide an additional bond.

The bond shall remain in force and effect until cancelled by the guarantor. The guarantor may cancel the bond upon 30 days notice to the Board. Cancellation of the bond shall not affect any liability incurred or accrued prior to the termination of the notice period.

(3) An applicant that is unable to secure a bond may seek a waiver of the guaranty bond from the Board and approval of one of the guaranty bond alternatives set forth in this subdivision. With the approval of the Board, an applicant may file with the clerk of the superior court of the county in which the program will be located, in lieu of a bond:

a. An assignment of a savings account in an amount equal to the bond required (i) which is in a form acceptable to the Board; (ii) which is executed by the applicant; and (iii) which is executed by a federally insured depository institution ~~lawfully doing business in this State; or a trust institution authorized to do business in this State;~~ and (iv) for which access to the account in favor of the State of North Carolina is subject to the same conditions as for a bond in subdivision (2) of this subsection.

b. A certificate of deposit (i) which is executed by a federally insured depository institution ~~lawfully doing business in this State; or a trust institution authorized to do business in this State;~~ and (ii) which is either payable to the State of North Carolina, unrestrictively endorsed to the Board; in the case of a negotiable certificate of deposit, is unrestrictively endorsed to the Board; or in the case of a nonnegotiable certificate of deposit, is assigned to the Board in a form satisfactory to the Board; and (iii) for which access to the certificate of deposit in favor of the State of North Carolina is subject to the same conditions as for a bond in subdivision (2) of this subsection."

SECTION 16.(k) G.S. 93A-42, as amended by Section 15(j) of this act, reads as rewritten:

"§ 93A-42. Time shares deemed real estate.

...

(d) The independent escrow agent provided by G.S. 93A-42(c)(2) shall deposit and maintain the purchaser's payments in an insured trust or escrow account in a federally insured depository institution ~~lawfully doing business in this State; or a trust institution authorized to do business in this State.~~ The trust or escrow account may be interest-bearing and the interest earned shall belong to the developer, if agreed upon in writing by the purchaser; provided, however, if the time share instrument is not recorded within the time periods specified in this section, then the interest earned shall belong to the purchaser. The independent escrow agent shall return all payments to the purchaser at the expiration of 180 days following the execution of the contract of sale by the purchaser, unless prior to that time the time share instrument has been recorded. However, if prior to the expiration of 180 days following the execution of the contract of sale, the developer and the purchaser provide their written consent to the independent escrow agent, the developer's obligation to record the time share instrument and the escrow period may be extended for an additional period of 120 days. Upon recordation of the time share instrument, the independent escrow agent shall pay the purchaser's funds to the developer. Upon request by the Commission, the independent escrow agent shall promptly make available to the Commission inspection of records of money held by the independent escrow agent.

...."

SECTION 16.(l) G.S. 93A-45, as amended by Section 15(k) of this act, reads as rewritten:

"§ 93A-45. Purchaser's right to cancel; escrow; violation.

...

(c) Any payments received by a time share developer or time share salesperson in connection with the sale of the time share shall be immediately deposited by such developer or salesperson in a trust or escrow account in a federally insured depository institution ~~lawfully doing business in this State or a trust institution authorized to do business in this State~~ and shall remain in such account for 10 days or cancellation by the purchaser, whichever occurs first. Payments held in such trust or escrow accounts shall be deemed to belong to the purchaser and not the developer. In lieu of such escrow requirements, the Commission shall have the authority to accept, in its discretion, alternative financial assurances adequate to protect the purchaser's interest during the contract cancellation period, including but not limited to a surety bond, corporate bond, cash deposit or irrevocable letter of credit in an amount equal to the escrow requirements.

...."

SECTION 16.1. G.S. 14-27.23(c) and G.S. 14-27.28(c) are repealed.

SECTION 16.3. G.S. 28A-2B-2 reads as rewritten:

"§ 28A-2B-2. Venue.

The venue for a petition under G.S. 28A-2B-1 is the county of this State in which the petitioner whose will or codicil is the subject of the petition ~~is domiciled~~ resides."

SECTION 16.4. G.S. 31D-5-505, as recodified by Section 7.2(b) of this act, reads as rewritten:

"§ 31D-5-505. Requisites of release ~~or limitation~~ as against creditors and purchasers for value.

No release ~~or limitation~~ of a power of appointment after March 8, 1943, which is made by the owner of the legal title to real property in this State shall be valid as against creditors and purchasers for a valuable consideration until an instrument in writing setting forth the release ~~or limitation~~ is executed and acknowledged in the manner required for a deed and recorded in the county where the real property is."

SECTION 16.5. G.S. 36C-5-505 reads as rewritten:

"§ 36C-5-505. Creditor's claim against settlor.

...

(c) Subject to the Uniform Voidable Transactions Act, Article 3A of Chapter 39 of the General Statutes, for purposes of this section, property contributed to the following trusts is not considered to have been contributed by the settlor and a person who would otherwise be treated as a settlor or a deemed settlor of the following trusts may not be treated as a settlor:

(1) If the settlor is a beneficiary after the death of the settlor's spouse:

- a. An irrevocable inter vivos marital trust that is treated as a general power of appointment trust described in section 2523(e) of the Internal Revenue Code.
- b. An irrevocable inter vivos marital trust that is treated as a qualified terminable interest trust under section 2523(f) of the Internal Revenue Code.
- c. An irrevocable inter vivos trust of which the settlor's spouse is a beneficiary during the spouse's lifetime but which does not qualify for the federal gift tax marital deduction, and during the lifetime of the settlor's spouse (i) the settlor's spouse is the only beneficiary or (ii) the settlor's spouse and ~~the settlor's issue~~ any issue of the settlor or the settlor's spouse, or both, are the only beneficiaries.

d. Another trust, to the extent that the property of the other trust is attributable to property passing from a trust described in sub-subdivisions a., b., and c. of this subdivision.

For purposes of this subdivision, notwithstanding the provisions of G.S. 36C-1-103(3), the settlor is a beneficiary whether so named under the initial trust instrument or through the exercise of a limited or general power of appointment.

(2) An irrevocable inter vivos trust for the benefit of a person if the settlor is the person's spouse, regardless of whether or when that person was a settlor of an irrevocable inter vivos trust for the benefit of the person's spouse.

For purposes of this subsection, the "settlor's spouse" refers to the person to whom the settlor was married at the time the irrevocable inter vivos trust was created, notwithstanding a subsequent dissolution of the marriage."

SECTION 16.6. G.S. 39-13.7 is amended by adding two new subsections to read:

"(f) Notice that the real property held in trust receives immunity from the claims of separate creditors may be given in a statement in the conveyance of the tenancy by the entireties real property to the trust that the real property is held under this section and that as of the date of the conveyance, the requirements of subsection (b) of this section are met.

(g) A person entering a transaction involving real property held in trust under this section may request confirmation from the trustee whether the requirements of this section providing immunity from the claims of separate creditors are met at the time of the transaction."

SECTION 16.8. G.S. 62-133.10 reads as rewritten:

"§ 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.~~ utility.

(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.

- 1 (6) Projected annual generation output of the facility and information detailing how
2 the generation projections were calculated.
- 3 (7) Information demonstrating that the operation of the facility will displace
4 electric generation resulting in a reduction of greenhouse gas emissions from
5 existing fossil fuel fired facilities used by the utility to meet the electricity
6 needs of its North Carolina customers.
- 7 (8) The projected fuel and fuel-related cost savings the utility seeks to retain and
8 how the savings were calculated.
- 9 (d) Upon the filing of the petition, the Public Staff shall conduct an investigation and shall
10 file a report with the Commission setting forth the results of its investigation and stating whether
11 the facility is a carbon offset facility. The Public Staff's report shall be filed not later than 45 days
12 after the date the petition was filed, unless the Commission grants an extension of time not to
13 exceed 15 days for good cause shown. Other interested persons may file comments in response to
14 the utility's petition and the Public Staff's report not later than 15 days after the Public Staff files
15 its report. The Commission shall enter an order either granting or denying the petition not later
16 than 105 days after the date the petition was filed. A finding by the Commission that the facility is
17 a carbon offset facility shall establish that the utility's decision to purchase or construct the facility
18 is reasonable and prudent.
- 19 (e) Nothing in this section shall be construed to exempt an electric public utility from
20 obtaining all applicable permits and certificates, including a certificate of public convenience and
21 necessity required by G.S. 62-110.1. An electric public utility shall file annual cost and schedule
22 updates with the Commission until the purchase or construction of an approved carbon offset
23 facility is completed.
- 24 (f) Upon placement into service of an approved carbon offset facility, the electric public
25 utility shall, in addition to the information and data provided under G.S. 62-133.2, submit the
26 following in conjunction with its application for a fuel and fuel-related charge adjustment:
- 27 (1) A calculation of the annual revenue requirement associated with the carbon
28 offset facility.
- 29 (2) Information demonstrating the specific items of costs associated with the
30 carbon offset facility's annual revenue requirement are reasonable and prudent.
- 31 (3) The fuel and fuel-related cost savings resulting from operation of the carbon
32 offset facility.
- 33 (4) Actual generation output of the carbon offset facility, including a demonstration
34 and quantification of how this generation displaced electric generation resulting
35 in reduced greenhouse gas emissions from existing fossil fuel fired facilities
36 used by the utility to meet the electricity needs of its North Carolina customers
37 during the test year.
- 38 (g) The Commission shall approve an estimate of the projected fuel and fuel-related cost
39 savings and an annual revenue requirement for an approved facility, as appropriate, in each
40 G.S. 62-133.2 proceeding. The Commission also may approve a true-up procedure for the
41 projected fuel and fuel-related cost savings. In the first G.S. 62-133.2 proceeding conducted after
42 the approved facility is placed in service, the Commission shall determine the reasonable and
43 prudent cost of the facility for ratemaking purposes. The revenue requirement associated with the
44 facility shall include but not be limited to: depreciation; operating and maintenance costs;
45 applicable taxes; and a return on investment, net of accumulated depreciation, accumulated
46 deferred income taxes, and other applicable savings or adjustments. The rate of return on
47 investment shall be based on the then current capital structure, embedded cost of preferred stock,
48 and embedded cost of debt of the public utility net of appropriate income taxes, and the cost of
49 common equity approved in the public utility's then most recent general rate case.
- 50 (h) The Commission shall authorize the electric public utility to utilize deferral accounting
51 for the fuel and fuel-related cost savings realized in conjunction with the operation of an approved

1 facility. The Commission shall, by rule or order, approve the terms and conditions of the deferral
2 accounting.

3 (i) The annual revenue requirement of the approved facility in excess of the annual fuel
4 and fuel-related cost savings shall be deemed recovered through the utility's then current base
5 rates.

6 (j) The adjustment authorized by this section shall terminate upon the establishment of
7 new rates in the electric public utility's next general rate case following the placement into service
8 and inclusion into base rates of the approved facility."

9 **SECTION 16.9.** If Senate Bill 734 of the 2016 Regular Session of the 2015 General
10 Assembly becomes law, then G.S. 90-12.7(b1), as enacted by Senate Bill 734, reads as rewritten:

11 "(b1) A pharmacist may dispense an opioid antagonist to a person described in subdivision
12 ~~(b)(1)~~(1) of subsection (b) of this section pursuant to a prescription issued pursuant to subsection
13 (b) of this section. For purposes of this section, the term "pharmacist" is as defined in
14 G.S. 90-85.3."

15 **SECTION 17.** G.S. 90-91 reads as rewritten:

16 **"§ 90-91. Schedule III controlled substances.**

17 This schedule includes the controlled substances listed or to be listed by whatever official
18 name, common or usual name, chemical name, or trade name designated. In determining that a
19 substance comes within this schedule, the Commission shall find: a potential for abuse less than
20 the substances listed in Schedules I and II; currently accepted medical use in the United States;
21 and abuse may lead to moderate or low physical dependence or high psychological dependence.
22 The following controlled substances are included in this schedule:

23 ...
24 (k) Anabolic steroids. The term "anabolic steroid" means any drug or hormonal substance,
25 chemically and pharmacologically related to testosterone (other than estrogens, progestins, and
26 corticosteroids) that promotes muscle growth, including, but not limited to, the following:

- 27 1. Methandrostenolone,
- 28 2. Stanozolol,
- 29 3. Ethylestrenol,
- 30 4. Nandrolone phenpropionate,
- 31 5. Nandrolone decanoate,
- 32 6. Testosterone propionate,
- 33 7. Chorionic gonadotropin,
- 34 8. Boldenone,
- 35 9. Chlorotestosterone (4-chlorotestosterone),
- 36 10. Clostebol,
- 37 11. Dehydrochlormethyltestosterone,
- 38 12. Dibydrotestosterone (4-dihydrotestosterone),
- 39 13. Drostanolone,
- 40 14. Fluoxymesterone,
- 41 15. Formebolone (formebolone),
- 42 16. Mesterolene,
- 43 17. Methandienone,
- 44 18. Methandranone,
- 45 19. Methandriol,
- 46 20. Methenolene,
- 47 21. Methyltestosterone,
- 48 22. Mibolerone,
- 49 23. Nandrolene,
- 50 24. Norethandrolene,
- 51 25. Oxandrolone,

- 1 26. Oxymesterone,
- 2 27. Oxymetholone,
- 3 28. Stanolone,
- 4 29. Testolactone,
- 5 30. Testosterone,
- 6 31. Trenbolone, and
- 7 32. Any salt, ester, or isomer of a drug or substance described or listed in this
- 8 subsection, if that salt, ester, or isomer promotes muscle growth. ~~Except~~

9 Except such term does not include (i) an anabolic steroid which is expressly intended for
10 administration through implants to cattle or other nonhuman species and which has been approved
11 by the Secretary of Health and Human Services for such ~~administration~~ administration or (ii)
12 chorionic gonadotropin when administered by injection for veterinary use by or upon the order of
13 a licensed veterinarian. If any person prescribes, dispenses, or distributes such steroid for human
14 use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic
15 steroid within the meaning of this subsection.

16"

17 **SECTION 18.** G.S. 90-96 reads as rewritten:

18 **"§ 90-96. Conditional discharge for first offense.**

19 (a) Whenever any person who has not previously been convicted of (i) any felony offense
20 under any state or federal laws; (ii) any offense under this Article; or (iii) an offense under any
21 statute of the United States or any state relating to those substances included in Article 5 or 5A of
22 Chapter 90 or to that paraphernalia included in Article 5B of Chapter 90 of the General Statutes
23 pleads guilty to or is found guilty of (i) a misdemeanor under this Article by possessing a
24 controlled substance included within Schedules I through VI of this Article or by possessing drug
25 paraphernalia as prohibited by ~~G.S. 90-113.22~~, G.S. 90-113.22 or G.S. 90-113.22A, or (ii) a felony
26 under G.S. 90-95(a)(3), the court shall, without entering a judgment of guilt and with the consent
27 of ~~such the~~ person, defer further proceedings and place ~~him the~~ person on probation upon such
28 reasonable terms and conditions as it may require, unless the court determines with a written
29 finding, and with the agreement of the District Attorney, that the offender is inappropriate for a
30 conditional discharge for factors related to the offense. Notwithstanding the provisions of
31 G.S. 15A-1342(c) or any other statute or law, probation may be imposed under this section for an
32 offense under this Article for which the prescribed punishment includes only a fine. To fulfill the
33 terms and conditions of probation the court may allow the defendant to participate in a drug
34 education program approved for this purpose by the Department of Health and Human Services or
35 in the Treatment for Effective Community Supervision Program under Subpart B of Part 6 of
36 Article 13 of Chapter 143B of the General Statutes. Upon violation of a term or condition, the
37 court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of
38 the terms and conditions, the court shall discharge ~~such the~~ person and dismiss the ~~proceedings~~
39 ~~against him. proceedings~~. Discharge and dismissal under this section shall be without court
40 adjudication of guilt and shall not be deemed a conviction for purposes of this section or for
41 purposes of disqualifications or disabilities imposed by law upon conviction of a crime including
42 the additional penalties imposed for second or subsequent convictions under this Article.
43 Discharge and dismissal under this section or G.S. 90-113.14 may occur only once with respect to
44 any person. Disposition of a case to determine discharge and dismissal under this section at the
45 district court division of the General Court of Justice shall be final for the purpose of appeal. Prior
46 to taking any action to discharge and dismiss under this section the court shall make a finding that
47 the defendant has no record of previous convictions as provided in this subsection.

48 (a1) Upon the first conviction only of any offense which qualifies under the provisions of
49 subsection (a) of this section, and the provisions of this subsection, the court may place defendant
50 on probation under this section for an offense under this Article including an offense for which the
51 prescribed punishment includes only a fine. The probation, if imposed, shall be for not less than

one year and shall contain a minimum condition that the defendant who was found guilty or pleads guilty enroll in and successfully complete, within 150 days of the date of the imposition of said probation, the program of instruction at the drug education school approved by the Department of Health and Human Services pursuant to G.S. 90-96.01. The court may impose probation that does not contain a condition that defendant successfully complete the program of instruction at a drug education school if:

- (1) There is no drug education school within a reasonable distance of the defendant's residence; or
- (2) There are specific, extenuating circumstances which make it likely that defendant will not benefit from the program of instruction.

The court shall enter such specific findings in the record; provided that in the case of subdivision (2) above, such findings shall include the specific, extenuating circumstances which make it likely that the defendant will not benefit from the program of instruction.

Upon fulfillment of the terms and conditions of the probation, the court shall discharge such person and dismiss the proceedings against the person.

For the purposes of determining whether the conviction is a first conviction or whether a person has already had discharge and dismissal, no prior offense occurring more than seven years before the date of the current offense shall be considered. In addition, convictions for violations of a provision of G.S. 90-95(a)(1) or 90-95(a)(2) or 90-95(a)(3), or 90-113.10, or 90-113.11, or 90-113.12, or ~~90-113.22~~ 90-113.22, or 90-113.22A shall be considered previous convictions.

Failure to complete successfully an approved program of instruction at a drug education school shall constitute grounds to revoke probation pursuant to this subsection and deny application for expunction of all recordation of defendant's arrest, indictment, or information, trial, finding of guilty, and dismissal and discharge pursuant to G.S. 15A-145.2. For purposes of this subsection, the phrase "failure to complete successfully the prescribed program of instruction at a drug education school" includes failure to attend scheduled classes without a valid excuse, failure to complete the course within 150 days of imposition of probation, willful failure to pay the required fee for the course as provided in G.S. 90-96.01(b), or any other manner in which the person fails to complete the course successfully. The instructor of the course to which a person is assigned shall report any failure of a person to complete successfully the program of instruction to the court which imposed probation. Upon receipt of the instructor's report that the person failed to complete the program successfully, the court shall revoke probation, shall not discharge such person, shall not dismiss the proceedings against the person, and shall deny application for expunction of all recordation of defendant's arrest, indictment, or information, trial, finding of guilty, and dismissal and discharge pursuant to G.S. 15A-145.2. A person may obtain a hearing before the court of original jurisdiction prior to revocation of probation or denial of application for expunction.

This subsection is supplemental and in addition to existing law and shall not be construed so as to repeal any existing provision contained in the General Statutes of North Carolina.

(b) Upon the discharge of such person, and dismissal of the proceedings against the person under subsection (a) or (a1) of this section, such person, if he or she was not over 21 years of age at the time of the offense, may be eligible to apply for expunction of certain records relating to the offense pursuant to G.S. 15A-145.2(a).

(c) Repealed by Session Laws 2009-510, s. 8(b), effective October 1, 2010.

(d) Whenever any person is charged with a misdemeanor under this Article by possessing a controlled substance included within Schedules I through VI of this Article or a felony under G.S. 90-95(a)(3), upon dismissal by the State of the charges against such person, upon entry of a nolle prosequi, or upon a finding of not guilty or other adjudication of innocence, the person may be eligible to apply for expunction of certain records relating to the offense pursuant to G.S. 15A-145.2(b).

(e) Whenever any person who has not previously been convicted of (i) any felony offense under any state or federal laws; (ii) any offense under this Article; or (iii) an offense under any

statute of the United States or any state relating to controlled substances included in any schedule of this Article or to that paraphernalia included in Article 5B of Chapter 90 of the General Statutes pleads guilty to or has been found guilty of (i) a misdemeanor under this Article by possessing a controlled substance included within Schedules I through VI of this Article, or by possessing drug paraphernalia as prohibited by G.S. 90-113.22 or G.S. 90-113.22A, or (ii) a felony under G.S. 90-95(a)(3), the person may be eligible to apply for cancellation of the judgment and expunction of certain records related to the offense pursuant to G.S. 15A-145.2(c).

(f) Repealed by Session Laws 2009-577, s. 6, effective December 1, 2009, and applicable to petitions for expunctions filed on or after that date."

SECTION 18.5.(a) G.S. 115C-401.2(a)(8), as enacted by S.L. 2016-11, reads as rewritten:

"(8) Targeted advertising. – Presenting an advertisement to a student where the advertisement is selected based on information obtained or inferred over time from that student's online behavior, usage of applications, or covered information. Targeted advertising does not include (i) using covered information to identify nonprofit institutions of higher education or scholarship providers to students or (ii) advertising to a student at an online location based upon that student's current visit to that location, or in response to that student's request for information or feedback, without the retention of that student's online activities or requests over time for the purpose of targeting subsequent ads."

SECTION 18.5.(b) G.S. 115C-401.2(e), as enacted by S.L. 2016-11, reads as rewritten:

"(e) Permissible Operator Actions. – This section does not prohibit an operator from doing any of the following:

- (1) Using covered information that is not associated with an identified student within the operator's site, service, or application or other sites, services, or applications owned by the operator to improve educational products.
- (2) Using covered information that is not associated with an identified student to demonstrate the effectiveness of the operator's products or services, including in their marketing.
- (3) Sharing covered information that is not associated with an identified student for the development and improvement of educational sites, services, or applications.
- (4) Using recommendation engines to recommend to a student either of the following:
 - a. Additional content relating to an educational, other learning, or employment opportunity purpose within the operator's site, service, or application if the recommendation is not determined in whole or in part by payment or other consideration from a third ~~party-party~~, excluding nonprofit institutions of higher education or scholarship providers that are seeking to enroll students who meet specific criteria.
 - b. Additional services relating to an educational, other learning, or employment opportunity purpose within the operator's site, service, or application if the recommendation is not determined in whole or in part by payment or other consideration from a third party.
- (5) Responding to a student's request for information or for feedback to help improve learning without the information or response being determined in whole or in part by payment or other consideration from a third ~~party-party~~, excluding nonprofit institutions of higher education or scholarship providers that are seeking to enroll students who meet specific criteria."

SECTION 19. G.S. 147-12(b) reads as rewritten:

"(b) The Department of Transportation, the Division of Adult Correction of the Department of Public Safety, the State Highway Patrol, the Wildlife Resources Commission, the Division of Parks and Recreation in the ~~Department of Natural and Natural Resources~~ [~~Department of Natural and Cultural Resources~~], Department of Natural and Cultural Resources, and the Division of Marine Fisheries in the Department of Environmental Quality shall deliver to the Governor by February 1 of each year detailed information on the agency's litter enforcement, litter prevention, and litter removal efforts. The Administrative Office of the Courts shall deliver to the Governor, by February 1 of each year, detailed information on the enforcement of the littering laws of the State, including the number of charges and convictions under the littering laws of the State. The Governor shall gather the information submitted by the respective agencies and deliver a consolidated annual report, on or before March 1 of each year, to the Environmental Review Commission, the Joint Legislative Transportation Oversight Committee, and the House of Representatives and the Senate appropriations committees with jurisdiction over natural and economic resources."

SECTION 19.2. G.S. 147-86.59 reads as rewritten:

"§ 147-86.59. Certification required.

(a) A State agency shall ~~require~~ certify that a person that attempts to contract with the State or political subdivision of the State, ~~including a contract renewal or assumption, to certify, at the time State is not identified on a list created by the State Treasurer pursuant to G.S. 147-86.58 when the bid is submitted or the contract is entered into, renewed, or assigned, that the person or the assignee is not identified on a list created by the State Treasurer pursuant to G.S. 147-86.58.~~ assigned. "Attempts to contract" include a contract renewal or assumption. A State agency shall include certification information in the procurement record. If a State agency and the same person enter into multiple contracts or multiple contract renewals or assumptions within 180 days after a certification is made, a new certification need not be made.

(b) A person that contracts with the State or a political subdivision of the State, including a contract renewal or assumption, shall not utilize on the contract with the State agency any subcontractor that is identified on a list created pursuant to G.S. 147-86.58.

(c) Upon receiving information that a person who has ~~made the certification~~ been certified as required by subsection (a) of this section is in violation thereof, the State agency shall review the information and offer the person an opportunity to respond. If the person fails to demonstrate that the person should not have been identified on the list created pursuant to G.S. 147-86.58 within 90 days after the determination of the violation, then the State agency shall take action as may be appropriate and provided for by law, rule, or contract."

SECTION 19.4.(a) G.S. 153A-99(b) reads as rewritten:

"(b) Definitions. For the purposes of this section:

- (1) "County employee" or "employee" means any person employed by a county or any department or program thereof that is supported, in whole or in part, by county ~~funds~~; funds. For the purposes of this section, a deputy sheriff and an employee of a sheriff are "county employees" or "employees";
- (2) "On duty" means that time period when an employee is engaged in the duties of his or her employment; and
- (3) "Workplace" means any place where an employee engages in his or her job duties."

SECTION 19.4.(b) This section becomes effective October 1, 2016.

SECTION 20. Section 1 of S.L. 2015-52 is repealed.

SECTION 21.(a) The Revisor of Statutes shall cause to be printed an explanatory comment to G.S. 36C-1-112 prepared by the Estate Planning and Fiduciary Law Section of the North Carolina Bar Association, that Section having originally prepared Chapter 36C of the General Statutes for introduction in 2005, as the Revisor may deem appropriate.

1 **SECTION 21.(b)** The Revisor of Statutes shall cause to be printed all explanatory
2 comments of the drafters of Sections 7.1, 7.2(b) and (c), 16.4, and 16.5, as the Revisor may deem
3 appropriate.
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5 **PART III. EFFECTIVE DATE**

6 **SECTION 22.** Except as otherwise provided in this act, this act is effective when it
7 becomes law.





SENATE BILL 821: GSC Technical Corrections 1.

2016-2017 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	June 28, 2016
Introduced by:	Sen. Hartsell	Prepared by:	Giles Perry
Analysis of:	PCS to Second Edition S821-CSMN-14		Committee Co-Counsel

SUMMARY: *Senate Bill 821 (proposed committee substitute) makes technical changes recommended by the General Statutes Commission and various other changes to State law.*

Part I of the PCS for this bill (Sections 1-14.1) contains technical changes recommended by the General Statutes Commission. Part II of the PCS contains additional technical amendments and changes to State law.

[As introduced, this bill was identical to H1064, as introduced by Rep. Bryan, which is currently in House Judiciary IV.]

BILL ANALYSIS:

PART I. General Statutes Commission Recommendations

Part I of the proposed committee substitute for this bill contains corrections of a technical nature that are recommended by the General Statutes Commission.

Sections 1-14.2 are technical changes recommended by the General Statutes Commission.

PART II. Other Amendments

Section 15 would repeal two provisions that have been found to be unconstitutional by the NC Court of Appeals in *State v. Singletary* because they allow the sentence to be modified based on findings by a judge. The US Supreme Court has held that, other than prior record, factors affecting sentencing must be found by a jury.

Section 16. would amend the statute governing drug-related overdose treatment by correcting an internal citation referenced in G.S. 90-12.7(b1).

Section 17 -- In 2014, the General Assembly enacted G.S. 90-113.22A, which separated the possession of marijuana paraphernalia from the possession of all other drug paraphernalia. *Section 18* would add the new separate offense to the statute authorizing the conditional discharge of a first offense of possession of drug paraphernalia so that a first offense of possession of marijuana paraphernalia will continue to be eligible for conditional discharge.

Section 18 would correct incorrect statutory citations.

Section 19 would correct the name of a State department.

Section 20 would repeal Section 1 of 2015-52, which requires the Department of Health and Human Services to provide information to the Program Evaluation Division. PED in turn is required to report to the Joint Legislative Program Evaluation Oversight Committee and the Joint Legislative Oversight

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578



Senate PCS 821

Page 2

Committee on Health and Human Services on certain criteria to be used in determining whether provision of overnight respite services in an adult day care setting is a worthwhile service. Permanent provision for such services has, however, been provided through the enactment of G.S. 131D-6.1.

Section 21 would correct an incorrect statutory citation.

Section 22 would correct the effective date of House Bill 289 (Money Transmitters Act), which has already passed.

Section 23 would correct the category of a Board of Agriculture appointee in the resolution giving the Senate's consent.

EFFECTIVE DATE:

PART III. Effective Date.

Section 24 would provide for the bill to be effective when it becomes law.

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GENERAL STATUTES COMMISSION

300 N. Salisbury Street, Suite 401
Raleigh, NC 27603-5925
Tel. 919-733-6660 Fax 919-715-5459

Floyd M. Lewis
Revisor of Statutes

P. Bly Hall
Assistant Revisor of Statutes

June 28, 2016

To: Senate Committee on Rules and Operations of the Senate
From: General Statutes Commission
Re: SB 821 (GSC Technical Corrections 1)

General Comments

Part I of the committee substitute for this bill contains corrections of a technical nature to the General Statutes and session laws as recommended by the General Statutes Commission.

These amendments correct typographical, redlining, and other obvious drafting and stylistic errors, make conforming changes, make references to public officials gender neutral, update archaic phrasing, repeal duplicative and obsolete provisions, rephrase unclear provisions, recodify two statutes, and add a cross-reference.

Specific Comments

Section 1 amends G.S. 14-118.6(b1) to clarify the phrasing of the third sentence. S.L. 2015-87 added subsection (b1) to provide clerks of court with authority similar to the authority of registers of deeds to refuse to file what appear to be false liens or encumbrances against public officers or public employees or one of their immediate family members. If the clerk declines to file, the document may not be filed unless a judge approves filing. As drafted, however, the 2015 provision can be read to require the clerk to review the clerk's own actions, followed by a mandatory appeal to a judge, if the reader assumes that an "and" is missing between "by the clerk of superior court by any judge" The amendment in this section reverses the order of two phrases in this sentence and makes it clearer.

Section 1.1 amends G.S. 14-159.3(a1) to correct an inadvertent error in the 2015 amendment to this section. Among other things, the 2015 amendment made references to "landowner" gender neutral by replacing references to "his" and "he" with references to "his or hers" and "he or she." "Landowner" can, however, include corporations and other entities. Rather than use "his, her, or its" and similar phrases, the amendment in this section repeats the word "landowner."

Section 2 amends G.S. 14-208.6 to make a conforming amendment in subdivision (5), the definition of "sexually violent offense."

S.L. 2015-181 recodified the sex offenses in former Article 7A of Chapter 14 of the General Statutes into a new Article 7B of that chapter and reorganized them to separate the rape offenses from the sexual assault offenses and also to separate out the offenses against children from the offenses against adults. In the process, former G.S. 14-27.2 (First degree rape) was separated into two new statutes, G.S. 14-27.21 (First degree forcible rape) and G.S. 14-27.24 (First degree statutory rape).



G.S. 14-208.6(5) included former G.S. 14-27.2 in its list of sexually violent offenses. As a result, S.L. 2015-181 should have amended G.S. 14-208.6(5) to include both new G.S. 14-27.21 and new G.S. 14-27.24 in this list as part of its conforming amendments. The 2015 session law did insert a reference to new G.S. 14-27.21, but it inadvertently failed to include new G.S. 14-27.24. The amendment in this section corrects that oversight.

Section 2.1 amends G.S. 20-45 in subsection (a) to eliminate an unnecessary word as legalese; in subsection (b) to make a reference to the Commissioner of Motor Vehicles gender neutral; and in subsection (c) to make a conforming amendment. The conforming amendment replaces a reference to former G.S. 20-309(e) with a reference to G.S. 20-311; S.L. 2006-213 repealed G.S. 20-309(e) and enacted new, more detailed provisions on revocation of licenses due to the cancellation of insurance. Those provisions are now contained in G.S. 20-311.

Section 3 amends the catchline of G.S. 20-171.24 to make a conforming amendment. Subsection (f) of G.S. 20-171.24, which formerly limited the application of that statute to certain listed municipalities and counties, was repealed by S.L. 2015-26. The statute therefore now applies statewide. The 2015 session law, however, failed to amend the catchline to reflect the change.

Section 3.1 amends G.S. 24-10.1 to delete a reference to repealed G.S. 24-1.2. That statute dealt with a special interest rate cap for installment sales. There was apparently no successor provision.

Section 4 amends G.S. 28A-2-4 to correct an obvious error in subdivision (a)(4) and one in subsection (c) and to add a cross-reference in subsection (c). G.S. 36C-2-203, the equivalent statute for trusts, was used as the model for this statute when it was enacted in 2011. Some of the changes to the text of G.S. 36C-2-203 that were needed to adapt the wording to estates rather than trusts and to allow for changes from the original text were not made. Specifically, in subdivision (a)(4), the reference in the last sentence to "a trust" proceeding should have been changed to "an estate" proceeding, and the citation in the introductory language of subsection (c) to "subsection ... (c) of this section" is an obvious error. Comparing the text of subsection (c) to the original model makes it apparent that the comparable reference in G.S. 28A-2-49(c) should be to subsection (b). In addition, this section adds a cross-reference to G.S. 28A-2-5.

Section 5, which amended G.S. 28A-2B-2, has been removed.

Section 6 amends G.S. 28A-19-5(b) to correct an obvious error by inserting a missing "not."

Section 7 amends G.S. 31B-1(a) to make a conforming amendment. G.S. 31B-1(a) lists possible persons that may renounce an interest in property. Subdivision (8) lists specifically only an "[a]ppointee" under a power of appointment with references to powers of appointment. However, G.S. 31D-4-401 expressly also allows permissible appointees and takers in default under a power of appointment to renounce, and G.S. 31B-2.1 describes how an instrument of renunciation by a permissible appointee or taker in default must be delivered.



Section 7.1 amends G.S. 36C-8-816.1 in subdivision (c)(9) to clarify the wording of a requirement and to correct an obvious drafting error.

G.S. 36C-8-816.1 is termed a "decanting" statute, that is, it allows a trustee to transfer the assets of one trust into another trust ("decant" from one to another), subject to certain restrictions. Subdivision (c)(9) requires that the terms of the second trust must not jeopardize any existing tax benefits. However, the current wording does not reflect the possibility that the existence of the decanting statute itself may be regarded as sufficient to disqualify the first trust from tax benefits for which it was designed to qualify. The amendment to this provision clarifies that, even assuming the possibility that the decanting statute itself may disqualify the first trust from certain tax benefits, the existence of the decanting statute is not a bar to the ability to decant. The amendment follows the wording of the equivalent provision in the Uniform Trust Decanting Act.

This section also changes references in subdivision (c)(9) to "Code" to "Internal Revenue Code." Chapter 36C defines "Internal Revenue Code" but does not define "Code"; for this reason, the full defined term should be included for precision.

Section 7.2 repeals two statutes in Chapter 39 of the General Statutes that were made duplicative or obsolete by the enactment last year of Chapter 31D of the General Statutes (Uniform Powers of Appointment Act) and recodifies two other statutes from that Chapter into Chapter 31D. Specifically, G.S. 39-33 provides a method of releasing a power of appointment that G.S. 39-34 makes non-exclusive. Essentially the same provision is now included in G.S. 31D-4-403, rendering the older statute duplicative and unnecessary. The repeal of G.S. 39-33 would in turn render G.S. 39-34 obsolete. Finally, subsections (b) and (c) of this section recodify G.S. 39-35 as G.S. 31D-5-505 and G.S. 39-36 as G.S. 31D-4-403.1.

Section 7.3 amends G.S. 42A-17(a) to make a conforming amendment. S.L. 2015-93 amended the primary statute on institutions in which a landlord in a vacation rental can deposit a tenant's security deposit and other advance payments to change the reference to a "bank or savings and loan association" to a "federally insured depository institution lawfully doing business in this State." G.S. 42A-17 effectively refers back to that provision by requiring the rental agreement to identify "the" institution where the security deposit is held. This section accordingly amends the wording in G.S. 42A-17(a) to conform to the new description in the primary provision.

Section 7.4 amends G.S. 97-25(f) to make two changes. First, the reference in the introductory language to filing "via electronic mail" is changed to "via electronic means"; the existing reference appears not to have literally meant e-mail only, since elsewhere in this same subsection (subdivision (2)) transcripts may be "submitted electronically." Second, the dangling language at the end of the introductory paragraph is corrected.

Section 8 makes a conforming amendment to the catchline of G.S. 108A-70.21. Former subsections (g) and (h) of that statute provided for the purchase of extended coverage in



the North Carolina Health Insurance for Children Program. With their repeal in 2015, the reference in the catchline to "purchase of extended coverage" is no longer relevant.

Section 9 amends G.S. 120-4.16(b) by codifying the second paragraph as subsection (b1). Please note that this second paragraph has what appears to be intended as a subsection catchline.

Section 9.1 repeals G.S. 120-57, which sets out duties for the now-repealed Legislative Intern Program Council and is therefore obsolete.

Section 9.2 amends G.S. 136-41.2(c) to update a reference. G.S. 160-410.3 has been long since repealed. The comparable provisions are G.S. 159-8 and G.S. 159-13.

Section 9.3 amends G.S. 143-215.31(a1)(6) to correct a typographical error in the reference to a section of the Code of Federal Regulations. There is no 18 C.F.R. § 333.112; the correct reference is to 18 C.F.R. § 388.112.

Section 9.4 amends G.S. 143B-168.5 to update the reference to G.S. 110-105.2, which was repealed last year. The comparable, more detailed, provisions are in G.S. 110-105.3, 110-105.4, 110-105.5, and 110-105.6. In addition, this section inserts a specific reference to the Division within the Department of Health and Human Services where the special unit established in this statute is located.

Section 9.5 amends G.S. 143B-931(b) to update references to G.S. 115C-238.56N to the current G.S. number, G.S. 115C-238.73.

Section 9.6 amends G.S. 143C-4(b)(2) to make a conforming change in the references to G.S. 166A-19.40, which was reorganized in last year's budget bill.

Section 10 amends G.S. 146-9(b)(4) to delete an extra word ("to").

Section 10.1 amends G.S. 147-12(a)(12) to update a citation. In 1989, the then-existing text of G.S. 143B-373 was designated as subsection (a) of that section and new subsections (b) through (d) were added. No conforming amendment was made to G.S. 147-12(a)(12).

Section 11 amends G.S. 153A-340(h) to remove "garbage language" caused by a redlining error in S.L. 2011-286 that caused the phrase "county development approval required by law" to be inserted twice.

Section 12 amends the introductory language of G.S. 160A-332(a) to update a citation. The definition formerly at subdivision (1) of G.S. 160A-331 was renumbered as (1b) in 1997. This section also changes the parentheses to commas.

Section 13 amends G.S. 160A-372(e) to change two references to "paragraph" to "subsection," which is now the correct term after the previously undesignated paragraphs in subsection (c) were given their own subsection designation.



Section 14(a) amends Section 7.1 of S.L. 2014-107 to make it clear that the amendment by Section 5.1 of that act applies to all trusts, regardless of when created. The 2014 act clarified that the common-law rule against accumulations no longer applies to trusts in this State. **Section 14(b)** makes the provision retroactive to the effective date of S.L. 2014-107.

Section 14.1 amends the introductory language of Section 54.5(b) of S.L. 2015-264 to correct a typographical error in the citation. Section 54.5(b) stated that it was amending "Section 32.2(c)" of S.L. 2015-241, but there was no such section and the provision actually set out was Section 32.3(c).

Section 14.2 authorizes the Revisor of Statutes to print drafters' comments to the amendments to Chapters 31D and 36C.

The **final section** of the bill contains an effective date that applies to the amendments in Part I unless otherwise specified. The bill is effective when it becomes law.

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 821
Judiciary I Committee Substitute Adopted 6/21/16
PROPOSED COMMITTEE SUBSTITUTE S821-CSMN-14 [v.1]
06/28/2016 07:34:07 PM

Short Title: GSC Technical Corrections I.

(Public)

Sponsors:

Referred to:

May 10, 2016

A BILL TO BE ENTITLED
AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE GENERAL STATUTES, AS
RECOMMENDED BY THE GENERAL STATUTES COMMISSION, AND TO MAKE
ADDITIONAL TECHNICAL AND OTHER AMENDMENTS TO THE GENERAL
STATUTES.

The General Assembly of North Carolina enacts:

**PART I. TECHNICAL CORRECTIONS RECOMMENDED BY THE GENERAL
STATUTES COMMISSION**

SECTION 1. G.S. 14-118.6(b1) reads as rewritten:

"(b1) When a lien or encumbrance is presented to a clerk of superior court for filing and the clerk of court has a reasonable suspicion that the lien or encumbrance is false as described in subsection (a) of this section, the clerk of court may refuse to file the lien or encumbrance. Neither the clerk of court nor the clerk's staff shall be liable for filing or the refusal to file a lien or encumbrance under this subsection. The clerk of superior court shall not file, index, or docket the document against the property of a public officer or public employee until that document is approved by any judge of the judicial district having subject matter jurisdiction for filing by the clerk of superior court by any judge of the judicial district having subject matter jurisdiction. If the judge determines that the filing is not false, the clerk shall index the claim of lien. A lien or encumbrance filed upon order of the court under this subsection shall have a priority interest as of the date and time of indexing by the clerk of superior court. If the court finds that there is no statutory or contractual basis for the proposed filing, the court shall enter an order that the proposed filing is null and void as a matter of law, and that it shall not be filed or indexed. The clerk of superior court shall serve the order and return the original denied filing to the person or entity that presented it. The person or entity shall have 30 days from the entry of the order to appeal the order. If the order is not appealed within the applicable time period, the clerk may destroy the filing."

SECTION 1.1. G.S. 14-159.3(a1) reads as rewritten:

"(a1) A landowner who gives a person written consent to operate an all-terrain vehicle on his or her the landowner's property owes the person the same duty of care that he or she the landowner owes a trespasser."

SECTION 2. G.S. 14-208.6 reads as rewritten:

"§ 14-208.6. Definitions.

The following definitions apply in this Article:

...



(5) "Sexually violent offense" means a violation of former G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.21 (first-degree forcible rape), G.S. 14-27.22 (second-degree forcible rape), G.S. 14-27.23 (statutory rape of a child by an adult), G.S. 14-27.24 (first-degree statutory rape), G.S. 14-27.25(a) (statutory rape of a person who is 15 years of age or younger and where the defendant is at least six years older), G.S. 14-27.26 (first-degree forcible sexual offense), G.S. 14-27.27 (second-degree forcible sexual offense), G.S. 14-27.28 (statutory sexual offense with a child by an adult), G.S. 14-27.29 (first-degree statutory sexual offense), G.S. 14-27.30(a) (statutory sexual offense with a person who is 15 years of age or younger and where the defendant is at least six years older), G.S. 14-27.31 (sexual activity by a substitute parent or custodian), G.S. 14-27.32 (sexual activity with a student), G.S. 14-27.33 (sexual battery), G.S. 14-43.11 (human trafficking) if (i) the offense is committed against a minor who is less than 18 years of age or (ii) the offense is committed against any person with the intent that they be held in sexual servitude, G.S. 14-43.13 (subjecting or maintaining a person for sexual servitude), G.S. 14-178 (incest between near relatives), G.S. 14-190.6 (employing or permitting minor to assist in offenses against public morality and decency), G.S. 14-190.9(a1) (felonious indecent exposure), G.S. 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third degree sexual exploitation of a minor), G.S. 14-202.1 (taking indecent liberties with children), G.S. 14-202.3 (Solicitation of child by computer or certain other electronic devices to commit an unlawful sex act), G.S. 14-202.4(a) (taking indecent liberties with a student), G.S. 14-205.2(c) or (d) (patronizing a prostitute who is a minor or a mentally disabled person), G.S. 14-205.3(b) (promoting prostitution of a minor or a mentally disabled person), G.S. 14-318.4(a1) (parent or caretaker commit or permit act of prostitution with or by a juvenile), or G.S. 14-318.4(a2) (commission or allowing of sexual act upon a juvenile by parent or guardian). The term also includes the following: a solicitation or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.

...."

SECTION 2.1. G.S. 20-45 reads as rewritten:

"§ 20-45. Seizure of documents and plates.

(a) The Division is ~~hereby~~ authorized to take possession of any certificate of title, registration card, permit, license, or registration plate issued by it upon expiration, revocation, cancellation, or suspension thereof, or which is fictitious, or which has been unlawfully or erroneously issued, or which has been unlawfully used.

(b) The Division may give notice to the owner, licensee or lessee of its authority to take possession of any certificate of title, registration card, permit, license, or registration plate issued by it and require that person to surrender it to the Commissioner or ~~his~~ the Commissioner's officers or agents. Any person who fails to surrender the certificate of title, registration card, permit, license, or registration plate or any duplicate thereof, upon personal service of notice or within 10 days after receipt of notice by mail as provided in G.S. 20-48, shall be guilty of a Class 2 misdemeanor.

(c) Any sworn law enforcement officer with jurisdiction, including a member of the State Highway Patrol, is authorized to seize the certificate of title, registration card, permit, license, or registration plate, if the officer has electronic or other notification from the Division that the item has been revoked or cancelled, or otherwise has probable cause to believe that the item has been revoked or cancelled under any law or statute, including ~~G.S. 20-309(e)~~ G.S. 20-311. If a criminal proceeding relating to a certificate of title, registration card, permit, or license is pending, the law

1 enforcement officer in possession of that item shall retain the item pending the entry of a final
2 judgment by a court with jurisdiction. If there is no criminal proceeding pending, the law
3 enforcement officer shall deliver the item to the Division.

4 (d) Any law enforcement officer who seizes a registration plate pursuant to this section
5 shall report the seizure to the Division within 48 hours of the seizure and shall return the
6 registration plate, but not a fictitious registration plate, to the Division within 10 business days of
7 the seizure."

8 **SECTION 3.** The catch line of G.S. 20-171.24 reads as rewritten:

9 **"§ 20-171.24. Motorized all-terrain vehicle use by municipal and county employees of listed**
10 **municipalities and counties permitted on certain highways."**

11 **SECTION 3.1.** G.S. 24-10.1(a) reads as rewritten:

12 "(a) Subject to the limitations contained in subsection (b) of this section, any lender may
13 charge a party to a loan or extension of credit governed by the provisions of ~~G.S. 24-1.1, 24-1.2,~~
14 G.S. 24-1.1 or G.S. 24-1.1A a late payment charge as agreed upon by the parties in the loan
15 contract."

16 **SECTION 4.** G.S. 28A-2-4 reads as rewritten:

17 **"§ 28A-2-4. Subject matter jurisdiction of the clerk of superior court in estate proceedings.**

18 (a) The clerks of superior court of this State, as ex officio judges of probate, shall have
19 original jurisdiction of estate proceedings. Except as provided in subdivision (4) of this subsection,
20 the jurisdiction of the clerk of superior court is exclusive. Estate proceedings include, but are not
21 limited to, the following:

- 22 (1) Probate of wills.
- 23 (2) Granting and revoking of letters testamentary and letters of administration, or
24 other proper letters of authority for the administration of estates.
- 25 (3) Determination of the elective share for a surviving spouse as provided in
26 G.S. 30-3.
- 27 (4) Proceedings to ascertain heirs or devisees, to approve settlement agreements
28 pursuant to G.S. 28A-2-10, to determine questions of construction of wills, to
29 determine priority among creditors, to determine whether a person is in
30 possession of property belonging to an estate, to order the recovery of property
31 of the estate in possession of third parties, and to determine the existence or
32 nonexistence of any immunity, power, privilege, duty, or right. Any party or the
33 clerk of superior court may file a notice of transfer of a proceeding pursuant to
34 this subdivision to the Superior Court Division of the General Court of Justice
35 as provided in G.S. 28A-2-6(h). In the absence of a transfer to superior court,
36 Article 26 of Chapter 1 of the General Statutes shall apply to ~~a trust or an estate~~
37 proceeding pending before the clerk of superior court to the extent consistent
38 with this Article.

39 (b) Nothing in this section shall affect the right of a person to file an action in the Superior
40 Court Division of the General Court of Justice for declaratory relief under Article 26 of Chapter 1
41 of the General Statutes. In the event that either the petitioner or the respondent in an estate
42 proceeding requests declaratory relief under Article 26 of Chapter 1 of the General Statutes, either
43 party may move for a transfer of the proceeding to the Superior Court Division of the General
44 Court of Justice as provided in Article 21 of Chapter 7A of the General Statutes. In the absence of
45 a removal to superior court, Article 26 of Chapter 1 of the General Statutes shall apply to an estate
46 proceeding to the extent consistent with this Article.

47 (c) Without otherwise limiting the jurisdiction of the Superior Court Division of the
48 General Court of Justice, the clerk of superior court shall not have jurisdiction under subsection (a)
49 or ~~(e)~~ (b) of this section or G.S. 28A-2-5 of the following:

- 50 (1) Actions by or against creditors or debtors of an estate, except as provided in
51 Article 19 of this Chapter.

- (2) Actions involving claims for monetary damages, including claims for breach of fiduciary duty, fraud, and negligence.
- (3) Caveats, except as provided under G.S. 31-36.
- (4) Proceeding to determine proper county of venue as provided in G.S. 28A-3-2.
- (5) Recovery of property transferred or conveyed by a decedent with intent to hinder, delay, or defraud creditors, pursuant to G.S. 28A-15-10(b)."

SECTION 5. Reserved.

SECTION 6. G.S. 28A-19-5(b) reads as rewritten:

"(b) With respect to a contingent or unliquidated claim rejected by a personal representative pursuant to G.S. 28A-19-16, the claimant may, within the three-month period prescribed by G.S. 28A-19-16, file a petition for an order of the clerk of superior court in accordance with subsection (a) of this section, provided that nothing in this section shall require the clerk of superior court to hear and determine the validity of, priority of, or amount of a contingent or unliquidated claim that has not yet become absolute."

SECTION 7. G.S. 31B-1(a) reads as rewritten:

"(a) A person who succeeds to a property interest as:

...

- (8) ~~Appointee~~ Appointee, permissible appointee, or taker in default under a power of appointment exercised by a testamentary instrument or a nontestamentary instrument;

...

may renounce at anytime, in whole or in part, the right of succession to any property or interest therein, including a future interest, by filing a written instrument under the provisions of this Chapter. A renunciation may be of a fractional share or any limited interest or estate. The renunciation shall be deemed to include the entire interest of the person whose property or interest is being renounced unless otherwise specifically limited. A person may renounce any interest in or power over property, including a power of appointment, even if its creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to renounce. Notwithstanding the foregoing, there shall be no right of partial renunciation if the instrument creating the interest expressly so provides."

SECTION 7.1. G.S. 36C-8-816.1 reads as rewritten:

"§ 36C-8-816.1. Trustee's special power to appoint to a second trust.

(a) For purposes of this section, the following definitions apply:

- (1) Current beneficiary. – A person who is a permissible distributee of trust income or principal.
- (2) Original trust. – A trust established under an irrevocable trust instrument pursuant to the terms of which a trustee has a discretionary power to distribute principal or income of the trust to or for the benefit of one or more current beneficiaries of the trust.
- (3) Second trust. – A trust established under an irrevocable trust instrument, the current beneficiaries of which are one or more of the current beneficiaries of the original trust. The second trust may be a trust created under the same trust instrument as the original trust or under a different trust instrument.

(b) A trustee of an original trust may, without authorization by the court, exercise the discretionary power to distribute principal or income to or for the benefit of one or more current beneficiaries of the original trust by appointing all or part of the principal or income of the original trust subject to the power in favor of a trustee of a second trust. The trustee of the original trust may exercise this power whether or not there is a current need to distribute principal or income under any standard provided in the terms of the original trust. The trustee's special power to appoint trust principal or income in further trust under this section includes the power to create the second trust. The second trust may have a duration that is longer than the duration of the first trust.

- 1 (c) The terms of the second trust shall be subject to all of the following:
- 2 (1) The beneficiaries of the second trust may include only beneficiaries of the
- 3 original trust.
- 4 (2) A beneficiary who has only a future beneficial interest, vested or contingent, in
- 5 the original trust cannot have the future beneficial interest accelerated to a
- 6 present interest in the second trust.
- 7 (3) The terms of the second trust may not reduce any fixed income, annuity, or
- 8 unitrust interest of a beneficiary in the assets of the original trust if that interest
- 9 has come into effect with respect to the beneficiary.
- 10 (4) If any contribution to the original trust qualified for a marital or charitable
- 11 deduction for federal income, gift, or estate tax purposes under the Internal
- 12 Revenue Code, then the second trust shall not contain any provision that, if
- 13 included in the original trust, would have prevented the original trust from
- 14 qualifying for the deduction or that would have reduced the amount of the
- 15 deduction.
- 16 (5) If contributions to the original trust have been excluded from the gift tax by the
- 17 application of section 2503(b) and section 2503(c) of the Internal Revenue
- 18 Code, then the second trust shall provide that the beneficiary's remainder
- 19 interest in the contributions shall vest and become distributable no later than the
- 20 date upon which the interest would have vested and become distributable under
- 21 the terms of the original trust.
- 22 (6) If any beneficiary of the original trust has a power of withdrawal over trust
- 23 property, then either:
- 24 a. The terms of the second trust must provide a power of withdrawal in the
- 25 second trust identical to the power of withdrawal in the original trust; or
- 26 b. Sufficient trust property must remain in the original trust to satisfy the
- 27 outstanding power of withdrawal.
- 28 (7) If a trustee of an original trust exercises a power to distribute principal or
- 29 income that is subject to an ascertainable standard by appointing property to a
- 30 second trust, then the power to distribute income or principal in the second trust
- 31 must be subject to the same ascertainable standard as in the original trust and
- 32 must be exercisable in favor of the same current beneficiaries to whom such
- 33 distribution could be made in the original trust.
- 34 (8) The second trust may confer a power of appointment upon a beneficiary of the
- 35 original trust to whom or for the benefit of whom the trustee has the power to
- 36 distribute principal or income of the original trust. The permissible appointees
- 37 of the power of appointment conferred upon a beneficiary may include persons
- 38 who are not beneficiaries of the original or second trust. The power of
- 39 appointment conferred upon a beneficiary shall be subject to the provisions of
- 40 G.S. 41-23 specifying the permissible period allowed for the suspension of the
- 41 power of alienation of the original trust and the time from which that
- 42 permissible period is computed.
- 43 (9) The terms of the second trust shall not contain any provisions that would
- 44 jeopardize (i) the qualification of a transfer as a direct skip under section
- 45 2642(c) of the ~~Internal Revenue~~ Internal Revenue Code, (ii) if the first trust
- 46 owns subchapter S Corporation stock, the election to treat a corporation as a
- 47 subchapter S Corporation under section 1362 of the Internal Revenue Code,
- 48 (iii) if the first trust owns an interest in property subject to the minimum
- 49 distribution rules of section 401(a)(9) of the Internal Revenue Code, a favorable
- 50 distribution period by shortening the minimum distribution period, or (iv) any
- 51 other specific tax benefit for which a contribution originally ~~the first trust was~~

clearly designed to qualify and for which the first trust qualified or would have qualified for income, gift, estate, or generation-skipping transfer tax purposes, but for the enactment of this section. In this subdivision, "tax benefit" means a federal or State tax deduction, exemption, exclusion, or other benefit not otherwise listed in this section, except for the benefit from having the settlor considered the owner under sections 671 through 679 of the Internal Revenue Code. Subject to clause (ii) above, the second trust may be a trust as to which the settlor is not considered the owner under sections 671 through 679 of the Internal Revenue Code even if the settlor is considered the owner of the first trust, and the second trust may be a trust as to which the settlor of the first trust is considered the owner under sections 671 through 679 of the Internal Revenue Code, even if the settlor is not considered the owner of the first trust.

(10) Notwithstanding any other provision of this section, but subject to the limitations of subdivisions (1), (2), (4), (5), and (9) of this subsection, a trustee may exercise the power to appoint principal and income under subsection (b) of this section with respect to a disabled beneficiary's interest in the original trust to a second trust that is a supplemental needs trust that does not have (i) an ascertainable standard (or has a different ascertainable standard); (ii) a fixed income, annuity, or unitrust interest in the assets of the original trust; or (iii) a right of withdrawal, if the trustee determines that it would be in the best interest of the disabled beneficiary. For purposes of this subsection, the following apply:

- a. A "supplemental needs trust" means a trust that is a discretionary trust under G.S. 36C-5-504 and relative to the original trust contains either lesser or greater restrictions on the trustee's power to distribute income or principal, and which the trustee believes would, if implemented, allow the disabled beneficiary to receive greater governmental benefits than the disabled beneficiary would receive if the power to appoint principal and income had not been exercised.
- b. "Governmental benefits" means medical assistance, financial aid, or services from any local, State, or federal agency or department.
- c. A "disabled beneficiary" means a current beneficiary of the original trust who the trustee determines has a condition that substantially impairs the beneficiary's ability to provide for his or her own support, care, or custody whether or not the beneficiary has been adjudicated a "disabled person" by any government agency or department.
- d. The second supplemental needs trust shall not be liable to pay or reimburse the State or any government or public agency for medical assistance, financial aid, or services provided to the disabled beneficiary except as provided in the second supplemental needs trust.

(d) A trustee may not exercise the power to appoint principal or income under subsection (b) of this section if the trustee is a beneficiary of the original trust, but the remaining cotrustee or a majority of the remaining cotrustees may act for the trust. If all the trustees are beneficiaries of the original trust, then the court may appoint a special fiduciary with authority to exercise the power to appoint principal or income under subsection (b) of this section.

(e) The exercise of the power to appoint principal or income under subsection (b) of this section:

- (1) Shall be considered the exercise of a power of appointment, other than a power to appoint to the trustee, the trustee's creditors, the trustee's estate, or the creditors of the trustee's estate; and

(2) Shall be subject to the provisions of G.S. 41-23 specifying the permissible period allowed for the suspension of the power of alienation of the original trust and the time from which that permissible period is computed; and

(3) Is not prohibited by a spendthrift provision or by a provision in the original trust instrument that prohibits amendment or revocation of the trust.

(f) To effect the exercise of the power to appoint principal or income under subsection (b) of this section, all of the following shall apply:

(1) The exercise of the power to appoint shall be made by an instrument in writing, signed and acknowledged by the trustee, setting forth the manner of the exercise of the power, including the terms of the second trust, and the effective date of the exercise of the power. The instrument shall be filed with the records of the original trust.

(2) The trustee shall give written notice to all qualified beneficiaries of the original trust, at least 60 days prior to the effective date of the exercise of the power to appoint, of the trustee's intention to exercise the power. The notice shall include a copy of the instrument described in subdivision (1) of this subsection.

(3) If all qualified beneficiaries waive the notice period by a signed written instrument delivered to the trustee, the trustee's power to appoint principal or income shall be exercisable after notice is waived by all qualified beneficiaries, notwithstanding the effective date of the exercise of the power.

(4) The trustee's notice under this subsection shall not limit the right of any beneficiary to object to the exercise of the trustee's power to appoint and bring an action for breach of trust seeking appropriate relief as provided by G.S. 36C-10-1001.

(g) Nothing in this section shall be construed to create or imply a duty of the trustee to exercise the power to distribute principal or income, and no inference of impropriety shall be made as a result of a trustee not exercising the power to appoint principal or income conferred under subsection (b) of this section. Nothing in this section shall be construed to abridge the right of any trustee who has a power to appoint property in further trust that arises under the terms of the original trust or under any other section of this Chapter or under another provision of law or under common law.

(h) A trustee or beneficiary may commence a proceeding to approve or disapprove a proposed exercise of the trustee's special power to appoint to a second trust pursuant to subsection (b) of this section."

SECTION 7.2.(a) G.S. 39-33 and G.S. 39-34 are repealed.

SECTION 7.2.(b) G.S. 39-35 is recodified as G.S. 31D-5-505.

SECTION 7.2.(c) G.S. 39-36 is recodified as G.S. 31D-4-403.1.

SECTION 7.3. G.S. 42A-17(a) reads as rewritten:

"(a) A vacation rental agreement shall identify the name and address of the ~~bank or savings and loan association~~ federally insured depository institution in which the tenant's security deposit and other advance payments are held in a trust account, and the landlord and real estate broker shall provide the tenant with an accounting of such deposit and payments if the tenant makes a reasonable request for an accounting prior to the tenant's occupancy of the property."

SECTION 7.4. G.S. 97-25(f) reads as rewritten:

"(f) In claims subject to G.S. 97-18(b) and (d), a party may file a motion as set forth in this subsection regarding a request for medical compensation or a dispute involving medical issues. The nonmoving party shall have the right to contest the motion. Motions and responses shall be submitted contemporaneously via electronic ~~mail~~ means to the Commission and to the opposing party or the opposing party's ~~attorney~~ attorney, as follows:

(1) A party may file a motion with the Executive Secretary for an administrative ruling regarding a request for medical compensation or a dispute involving

1 medical issues. The motion shall be decided administratively pursuant to rules
2 governing motions practices in contested cases. The Commission shall decide
3 the motion within 30 days of the filing of the motion unless an extension of
4 time to respond to the motion has been granted for good cause shown. Either
5 party may file a motion for reconsideration of the administrative order with the
6 Executive Secretary. Either party may request an expedited formal hearing
7 pursuant to G.S. 97-84 and subdivision (2) of this subsection to appeal the
8 decision of the Executive Secretary approving or denying the original motion or
9 the motion for reconsideration. Within five days of the filing of a request for an
10 expedited formal hearing pursuant to G.S. 97-84 and subdivision (2) of this
11 subsection to appeal the decision of the Executive Secretary, the Commission
12 shall assign a Deputy Commissioner to conduct the formal hearing. The
13 decision shall not be stayed during the pendency of an appeal pursuant to
14 G.S. 97-84 and subdivision (2) of this subsection except under those
15 circumstances set out in subdivision (4) of this subsection. A motion to stay
16 shall be filed with the Deputy Commissioner scheduled to conduct the formal
17 hearing pursuant to G.S. 97-84. Either party may appeal the decision of the
18 Deputy Commissioner pursuant to G.S. 97-84 to the Full Commission pursuant
19 to G.S. 97-85. The decision of the Deputy Commissioner shall not be stayed
20 during the pendency of an appeal except under those circumstances set out in
21 subdivision (4) of this subsection. A motion to stay the decision of the Deputy
22 Commissioner pursuant to G.S. 97-84 shall be directed to the Chair of the
23 Commission. The Full Commission shall render a decision on the appeal of the
24 Deputy Commissioner's decision on the motion within 60 days of the filing of
25 the notice of appeal.

- 26 (2) In lieu of filing a motion with the Executive Secretary for an administrative
27 ruling pursuant to subdivision (1) of this subsection, when appealing a ruling
28 made pursuant to subdivision (1) of this subsection or when appealing an
29 administrative ruling of the Chief Deputy or the Chief Deputy's designee on an
30 emergency motion, a party may request a full evidentiary hearing pursuant to
31 G.S. 97-84 on an expedited basis, limited to a request for medical compensation
32 or a dispute involving medical issues, by filing a motion with the Office of the
33 Chief Deputy Commissioner. The case will not be ordered into mediation based
34 upon a party's request for hearing on the motion or appeal under this
35 subdivision, except upon the consent of the parties. The Commission shall set
36 the date of the expedited hearing, which shall be held within 30 days of the
37 filing of the motion or appeal and shall notify the parties of the time and place
38 of the hearing on the motion or appeal. Upon request, the Commission may
39 order expedited discovery. The record shall be closed within 60 days of the
40 filing of the motion, or in the case of an appeal pursuant to subdivisions (1) and
41 (3) of this subsection, within 60 days of the filing of the appeal, unless the
42 parties agree otherwise or the Commission so orders. Transcripts of depositions
43 shall be expedited if necessary and paid pursuant to rules promulgated by the
44 Commission related to depositions and shall be submitted electronically to the
45 Commission. The Commission shall decide the issue in dispute and make
46 findings of fact based upon the preponderance of the evidence in view of the
47 entire record. The award, together with a statement of the findings of fact,
48 rulings of law, and other matters pertinent to the questions at issue shall be filed
49 with the record of the proceedings within 15 days of the close of the hearing
50 record, and a copy of the award shall immediately be sent to the parties. Either
51 party may appeal the decision of the Deputy Commissioner pursuant to

G.S. 97-84 to the Full Commission pursuant to G.S. 97-85. The decision of the Deputy Commissioner pursuant to G.S. 97-84 shall not be stayed during the pendency of an appeal except under those circumstances set out in subdivision (4) of this subsection. A motion to stay the decision of the Deputy Commissioner pursuant to G.S. 97-84 shall be directed to the Chair of the Commission. The Full Commission shall render a decision on the appeal of the Deputy Commissioner's decision on the motion within 60 days of the filing of the notice of appeal.

(3) An emergency medical motion filed by either party shall be filed with the Office of the Chief Deputy Commissioner. The Chief Deputy or Chief Deputy's designee shall rule on the motion within five days of receipt unless the Chief Deputy or Chief Deputy's designee determines that the motion is not an emergency, in which case the motion shall be referred to the Executive Secretary for an administrative ruling pursuant to subdivision (1) of this subsection. Motions requesting emergency medical relief shall contain all of the following:

- a. An explanation of the medical diagnosis and treatment recommendation of the health care provider that requires emergency attention.
- b. A specific statement detailing the time-sensitive nature of the request to include relevant dates and the potential for adverse consequences to the movant if the recommended relief is not provided emergently.
- c. An explanation of opinions known and in the possession of the movant of additional medical or other relevant experts, independent medical examiners, and second opinion examiners.
- d. Documentation known and in the possession of the movant in support of the request, including relevant medical records.
- e. A representation that informal means of resolving the issue have been attempted.

Either party may appeal the decision of the Chief Deputy or the Chief Deputy's designee on the emergency motion by requesting an expedited formal hearing pursuant to G.S. 97-84 and subdivision (2) of this subsection to appeal the administrative decision of the Chief Deputy or the Chief Deputy's designee on the emergency motion. Within five days of the filing of a request for an expedited formal hearing pursuant to G.S. 97-84 and subdivision (2) of this subsection, the Commission shall assign a Deputy Commissioner to conduct the formal hearing. The decision of the Chief Deputy or the Chief Deputy's designee shall not be stayed during the pendency of an appeal of the administrative decision except under those circumstances set out in subdivision (4) of this subsection. Any motion to stay shall be filed with the Deputy Commissioner scheduled to conduct the expedited formal hearing pursuant to G.S. 97-84 and subdivision (2) of this subsection. Either party may appeal the decision of the Deputy Commissioner pursuant to G.S. 97-84 to the Full Commission pursuant to G.S. 97-85. If so, the decision of the Deputy Commissioner shall not be stayed during the pendency of an appeal except under those circumstances set out in subdivision (4) of this subsection. Any motion to stay the decision of the Deputy Commissioner pursuant to G.S. 97-84 shall be directed to the Chair of the Commission. The Full Commission shall render a decision on the appeal of the Deputy Commissioner's decision on the motion within 60 days of the filing of the notice of appeal.

(4) The Commission shall consider, among other factors, all of the following when determining whether to grant a motion to stay filed pursuant to this subsection:

- a. Whether there would be immediate and irreparable injury, harm, loss, or damage to either party.
 - b. The nature and cost of the medical relief sought.
 - c. The risk for further injury or disability to the employee inherent in the treatment or its delay.
 - d. Whether it has been recommended by an authorized physician.
 - e. Whether alternative therapeutic modalities are available and reasonable.
- (5) If the Commission determines that any party has acted unreasonably by initiating or objecting to a motion filed pursuant to this section, the Commission may assess costs associated with any proceeding, including any reasonable attorneys' fees and deposition costs, against the offending party."

SECTION 8. The catch line of G.S. 108A-70.21 reads as rewritten:

"§ 108A-70.21. Program eligibility; benefits; enrollment fee and other cost-sharing; coverage from private plans; ~~purchase of extended coverage plans.~~"

SECTION 9. G.S. 120-4.16(b) reads as rewritten:

"(b) Purchase of Service Credits Through Rollover Contributions From Certain Other Plans. – Notwithstanding any other provision of this Article, and without regard to any limitations on contributions otherwise set forth in this Article, a member, who is eligible to restore or purchase membership or creditable service pursuant to the provisions of this Article, may purchase such service credits through rollover contributions to the Annuity Savings Fund from (i) an annuity contract described in Section 403(b) of the Internal Revenue Code, (ii) an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, (iii) an individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be includible in gross income, or (iv) a qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code. Notwithstanding the foregoing, the Retirement System shall not accept any amount as a rollover contribution unless such amount is eligible to be rolled over to a qualified trust in accordance with applicable law and the member provides evidence satisfactory to the Retirement System that such amount qualifies for rollover treatment. Unless received by the Retirement System in the form of a direct rollover, the rollover contribution must be paid to the Retirement System on or before the 60th day after the date it was received by the member.

(b1) Purchase of Service Credits Through Plan-to-Plan Transfers. – Notwithstanding any other provision of this Article, and without regard to any limitations on contributions otherwise set forth in this Article, a member, who is eligible to restore or purchase membership or creditable service pursuant to the provisions of this Article, may purchase such service credits through a direct transfer to the Annuity Savings Fund of funds from (i) an annuity contract described in Section 403(b) of the Internal Revenue Code or (ii) an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state."

SECTION 9.1. G.S. 120-57 is repealed.

SECTION 9.2. G.S. 136-41.2(c) reads as rewritten:

"(c) No municipality shall be eligible to receive funds under G.S. 136-41.1 unless it has formally adopted a budget ordinance in substantial compliance with ~~G.S. 160-410.3, G.S. 159-8 and G.S. 159-13,~~ showing revenue received from all sources, and showing that funds have been appropriated for at least two of the following municipal services if the municipality was incorporated with an effective date prior to January 1, 2000, water distribution; sewage collection or disposal; garbage and refuse collection or disposal; fire protection; police protection; street maintenance, construction, or right-of-way acquisition; or street lighting, or at least four of the following municipal services if the municipality was incorporated with an effective date of on or after January 1, 2000: (i) police protection; (ii) fire protection; (iii) solid waste collection or

disposal; (iv) water distribution; (v) street maintenance; (vi) street construction or right-of-way acquisition; (vii) street lighting; and (viii) zoning."

SECTION 9.3. G.S. 143-215.31(a) reads as rewritten:

"(a) The owner of a dam classified by the Department as a high-hazard dam or an intermediate-hazard dam shall develop an Emergency Action Plan for the dam as provided in this subsection; subsection:

(1) The owner of the dam shall submit a proposed Emergency Action Plan for the dam within 90 days after the dam is classified as a high-hazard dam or an intermediate-hazard dam to the Department and the Department of Public Safety for their review and approval. The Department and the Department of Public Safety shall approve the Emergency Action Plan if they determine that it complies with the requirements of this subsection and will protect public health, safety, and welfare; the environment; and natural resources.

(2) The Emergency Action Plan shall include, at a minimum, all of the following:

- a. A description of potential emergency conditions that could occur at the dam, including security risks.
- b. A description of actions to be taken in response to an emergency condition at the dam.
- c. Emergency notification procedures to aid in warning and evacuations during an emergency condition at the dam.
- d. A downstream inundation map depicting areas affected by a dam failure and sudden release of the impoundment. A downstream inundation map prepared pursuant to this section does not require preparation by a licensed professional engineer or a person under the responsible charge of a licensed professional engineer unless the dam is associated with a coal combustion residuals surface impoundment, as defined by G.S. 130A-309.201.

(3) The owner of the dam shall update the Emergency Action Plan annually and shall submit it to the Department and the Department of Public Safety for their review and approval within one year of the prior approval.

(4) The Department shall provide a copy of the Emergency Action Plan to the regional offices of the Department that might respond to an emergency condition at the dam.

(5) The Department of Public Safety shall provide a copy of the Emergency Action Plan to all local emergency management agencies that might respond to an emergency condition at the dam.

(6) Information included in an Emergency Action Plan that constitutes sensitive public security information, as provided in G.S. 132-1.7, shall be maintained as confidential information and shall not be subject to disclosure under the Public Records Act. For purposes of this section, "sensitive public security information" shall include Critical Energy Infrastructure Information protected from disclosure under rules adopted by the Federal Energy Regulatory Commission in ~~18 C.F.R. § 333.112~~ 18 C.F.R. § 388.112."

SECTION 9.4. G.S. 143B-168.5 reads as rewritten:

"§ 143B-168.5. Child Care – special unit.

There is established within the Department of Health and Human ~~Services~~ Services, Division of Child Development and Early Education, a special unit to deal primarily with violations involving child abuse and neglect in child care arrangements. The Child Care Commission shall make rules for the investigation of reports of child abuse or neglect and for administrative action when child abuse or neglect is substantiated, pursuant to G.S. 110-88(6a), 110-105, ~~and 110-105.2, 110-105.3, 110-105.4, 110-105.5, and 110-105.6.~~

SECTION 9.5. G.S. 143B-931(b) reads as rewritten:

"(b) The Department of Public Safety may provide a criminal history record check to the board of directors of a regional school of a person who is employed at a regional school or of a person who has applied for employment at a regional school if the employee or applicant consents to the record check. The Department may also provide a criminal history record check of school personnel as defined in ~~G.S. 115C-238.56N~~ G.S. 115C-238.73 by fingerprint card to the board of directors of the regional school from the National Repositories of Criminal Histories, in accordance with ~~G.S. 115C-238.56N~~ G.S. 115C-238.73. The information shall be kept confidential by the board of directors of the regional school as provided in ~~G.S. 115C-238.56N~~ G.S. 115C-238.73."

SECTION 9.6. G.S. 143C-6-4(b) reads as rewritten:

"(b) Budget Adjustments. – Notwithstanding the provisions of G.S. 143C-6-1, a State agency may, with approval of the Director of the Budget, spend more than was appropriated in the certified budget by adjusting the authorized budget for all of the following:

- (1) Line items within programs. – An object or line item within a purpose or program so long as the total amount expended for the purpose or program is no more than was authorized in the certified budget for the purpose or program.
- (2) Responses to extraordinary events. – A purpose or program if the overexpenditure of the purpose or program is:
 - a. Required by a court or Industrial Commission order;
 - b. Authorized under ~~G.S. 166A-19.40(a)~~ G.S. 166A-19.40(a)(1) and (c) of the North Carolina Emergency Management Act; or
 - c. Required to call out the North Carolina National Guard.
- (3) Responses to unforeseen circumstances. – A purpose or program not subject to the provisions of subdivision (b)(2) of this subsection, if each of the following conditions is satisfied:
 - a. The overexpenditure is required to continue the purpose or programs due to complications or changes in circumstances that could not have been foreseen when the budget for the fiscal period was enacted.
 - b. The scope of the purpose or program is not increased.
 - c. The overexpenditure is authorized on a one-time nonrecurring basis for one year only, unless the overexpenditure is the result of (i) salary adjustments authorized by law or (ii) the establishment of time-limited positions funded with agency receipts."

SECTION 10. G.S. 146-9(b) reads as rewritten:

"(b) Notwithstanding subsection (a) of this section, or any other provision of law, prior to expiration of a lease of mineral deposits in State lands, the Department of Administration or other entity designated by the Department shall solicit competitive bids for lease of such mineral deposits, which shall include a process for upset bids as described in this subsection. An upset bid is an increased or raised bid whereby a person offers to lease such mineral rights for an amount exceeding the highest bid received in response to the initial solicitation for competitive bids, or the last upset bid, as applicable, by a minimum of five percent (5%). The process shall provide that the Department or other designated entity that issued the solicitation for competitive bids shall issue a notice of high bid to the person submitting the highest bid in response to the initial solicitation for competitive bids, or the person submitting the last upset bid, as applicable, and any other bidders that have submitted a bid in an amount seventy-five percent (75%) or more of the highest bid received in response to the initial solicitation for competitive bids, or the last upset bid, as applicable, of the highest bid received at that point within 10 days of the closure of the bidding period, as provided in the solicitation for competitive bids, through notice delivered by any means authorized under G.S. 1A-1, Rule 4. Thereafter, an upset bid may be made by delivering to the Department or other designated entity, subject to all of the following requirements and conditions:

- 1 ...
2 (4) When an upset bid is made as provided in this subsection, the Department or
3 other designated entity shall notify ~~to~~ the highest prior bidder, and any other
4 bidders that have submitted a bid in an amount seventy-five percent (75%) or
5 more of the current high bid received in response to the initial solicitation for
6 competitive bids, or the last upset bid, as applicable.

7

8 **SECTION 10.1.** G.S. 147-12(a) reads as rewritten:

9 "(a) In addition to the powers and duties prescribed by the Constitution, the Governor has
10 the powers and duties prescribed in this and the following sections:

- 11 (1) To supervise the official conduct of all executive and ministerial officers; and
12 when the Governor deems it advisable to visit all State institutions for the
13 purpose of inquiring into the management and needs of the same.

14 ...

- 15 (12) To name and locate State government buildings, monuments, memorials, and
16 improvements, as provided by ~~G.S. 143B-373(1)~~ G.S. 143B-373(a)(1).

17

18 **SECTION 11.** G.S. 153A-340(h) reads as rewritten:

19 "(h) As provided in this subsection, counties may adopt temporary moratoria on any ~~county~~
20 ~~development approval required by law~~, county development approval required by law, except for
21 the purpose of developing and adopting new or amended plans or ordinances as to residential uses.
22 The duration of any moratorium shall be reasonable in light of the specific conditions that warrant
23 imposition of the moratorium and may not exceed the period of time necessary to correct, modify,
24 or resolve such conditions. Except in cases of imminent and substantial threat to public health or
25 safety, before adopting an ordinance imposing a development moratorium with a duration of 60
26 days or any shorter period, the board of commissioners shall hold a public hearing and shall
27 publish a notice of the hearing in a newspaper having general circulation in the area not less than
28 seven days before the date set for the hearing. A development moratorium with a duration of 61
29 days or longer, and any extension of a moratorium so that the total duration is 61 days or longer, is
30 subject to the notice and hearing requirements of G.S. 153A-323. Absent an imminent threat to
31 public health or safety, a development moratorium adopted pursuant to this section shall not apply
32 to any project for which a valid building permit issued pursuant to G.S. 153A-357 is outstanding,
33 to any project for which a conditional use permit application or special use permit application has
34 been accepted, to development set forth in a site-specific or phased development plan approved
35 pursuant to G.S. 153A-344.1, to development for which substantial expenditures have already
36 been made in good faith reliance on a prior valid administrative or quasi-judicial permit or
37 approval, or to preliminary or final subdivision plats that have been accepted for review by the
38 county prior to the call for public hearing to adopt the moratorium. Any preliminary subdivision
39 plat accepted for review by the county prior to the call for public hearing, if subsequently
40 approved, shall be allowed to proceed to final plat approval without being subject to the
41 moratorium.

42 Any ordinance establishing a development moratorium must expressly include at the time of
43 adoption each of the following:

- 44 (1) A clear statement of the problems or conditions necessitating the moratorium
45 and what courses of action, alternative to a moratorium, were considered by the
46 county and why those alternative courses of action were not deemed adequate.
47 (2) A clear statement of the development approvals subject to the moratorium and
48 how a moratorium on those approvals will address the problems or conditions
49 leading to imposition of the moratorium.

(3) An express date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.

(4) A clear statement of the actions, and the schedule for those actions, proposed to be taken by the county during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.

No moratorium may be subsequently renewed or extended for any additional period unless the city shall have taken all reasonable and feasible steps proposed to be taken by the county in its ordinance establishing the moratorium to address the problems or conditions leading to imposition of the moratorium and unless new facts and conditions warrant an extension. Any ordinance renewing or extending a development moratorium must expressly include, at the time of adoption, the findings set forth in subdivisions (1) through (4) of this subsection, including what new facts or conditions warrant the extension.

Any person aggrieved by the imposition of a moratorium on development approvals required by law may apply to the appropriate division of the General Court of Justice for an order enjoining the enforcement of the moratorium, and the court shall have jurisdiction to issue that order. Actions brought pursuant to this section shall be set down for immediate hearing, and subsequent proceedings in those actions shall be accorded priority by the trial and appellate courts. In any such action, the county shall have the burden of showing compliance with the procedural requirements of this subsection."

SECTION 12. G.S. 160A-332(a) reads as rewritten:

"(a) The suppliers of electric service inside the corporate limits of any city in which a secondary supplier was furnishing electric service on the determination ~~date (as defined in G.S. 160A-331(1))~~ date, as defined in G.S. 160A-331(1b), shall have rights and be subject to restrictions as follows:

...."

SECTION 13.(a) G.S. 160A-372(e) reads as rewritten:

"(e) The ordinance may provide that a developer may provide funds to the city whereby the city may acquire recreational land or areas to serve the development or subdivision, including the purchase of land that may be used to serve more than one subdivision or development within the immediate area. All funds received by the city pursuant to this ~~paragraph [subsection]~~ subsection shall be used only for the acquisition or development of recreation, park, or open space sites. Any formula enacted to determine the amount of funds that are to be provided under this ~~paragraph [subsection]~~ subsection shall be based on the value of the development or subdivision for property tax purposes. The ordinance may allow a combination or partial payment of funds and partial dedication of land when the governing body of the city determines that this combination is in the best interests of the citizens of the area to be served."

SECTION 13.(b) G.S. 160A-372(f) reads as rewritten:

"(f) The ordinance may provide that in lieu of required street construction, a developer may be required to provide funds that the city may use for the construction of roads to serve the occupants, residents, or invitees of the subdivision or development and these funds may be used for roads which serve more than one subdivision or development within the area. All funds received by the city pursuant to this ~~paragraph [subsection]~~ subsection shall be used only for development of roads, including design, land acquisition, and construction. However, a city may undertake these activities in conjunction with the Department of Transportation under an agreement between the city and the Department of Transportation. Any formula adopted to determine the amount of funds the developer is to pay in lieu of required street construction shall be based on the trips generated from the subdivision or development. The ordinance may require a combination of partial payment of funds and partial dedication of constructed streets when the governing body of the city determines that a combination is in the best interests of the citizens of the area to be served."

1 **SECTION 14.(a)** Section 7.1 of S.L. 2014-107 reads as rewritten:

2 **"SECTION 7.1.** Section 5.1 of this act applies to all trusts created before, on, or after the
3 effective date of this act. Except as otherwise provided, this act is effective when it becomes law."

4 **SECTION 14.(b)** This section becomes retroactively effective August 6, 2014.

5 **SECTION 14.1.** The introductory language of Section 54.5(b) of S.L. 2015-264 reads
6 as rewritten:

7 **"SECTION 54.5.(b)** ~~Section 32.2(c)~~ Section 32.3(c) of S.L. 2015-241 reads as rewritten:"

8 **SECTION 14.2.** The Revisor of Statutes shall cause to be printed all explanatory
9 comments of the drafters of Sections 7.1 and 7.2(b) and (c), as the Revisor may deem appropriate.

10

11 **PART II. ADDITIONAL TECHNICAL AND OTHER AMENDMENTS**

12 **SECTION 15.** G.S. 14-27.23(c) and G.S. 14-27.28(c) are repealed.

13 **SECTION 16.** G.S. 90-12.7(b1), as enacted by S.L. 2016-17, reads as rewritten:

14 (b1) A pharmacist may dispense an opioid antagonist to a person described in subdivision
15 ~~(b)(1)(1)~~ (b) of subsection (b) of this section pursuant to a prescription issued pursuant to subsection
16 (b) of this section. For purposes of this section, the term "pharmacist" is as defined in
17 G.S. 90-85.3."

18 **SECTION 17.** G.S. 90-96 reads as rewritten:

19 **"§ 90-96. Conditional discharge for first offense.**

20 (a) Whenever any person who has not previously been convicted of (i) any felony offense
21 under any state or federal laws; (ii) any offense under this Article; or (iii) an offense under any
22 statute of the United States or any state relating to those substances included in Article 5 or 5A of
23 Chapter 90 or to that paraphernalia included in Article 5B of Chapter 90 of the General Statutes
24 pleads guilty to or is found guilty of (i) a misdemeanor under this Article by possessing a
25 controlled substance included within Schedules I through VI of this Article or by possessing drug
26 paraphernalia as prohibited by ~~G.S. 90-113.22~~, G.S. 90-113.22 or G.S. 90-113.22A, or (ii) a felony
27 under G.S. 90-95(a)(3), the court shall, without entering a judgment of guilt and with the consent
28 of ~~such the~~ the person, defer further proceedings and place ~~him the~~ the person on probation upon such
29 reasonable terms and conditions as it may require, unless the court determines with a written
30 finding, and with the agreement of the District Attorney, that the offender is inappropriate for a
31 conditional discharge for factors related to the offense. Notwithstanding the provisions of
32 G.S. 15A-1342(c) or any other statute or law, probation may be imposed under this section for an
33 offense under this Article for which the prescribed punishment includes only a fine. To fulfill the
34 terms and conditions of probation the court may allow the defendant to participate in a drug
35 education program approved for this purpose by the Department of Health and Human Services or
36 in the Treatment for Effective Community Supervision Program under Subpart B of Part 6 of
37 Article 13 of Chapter 143B of the General Statutes. Upon violation of a term or condition, the
38 court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of
39 the terms and conditions, the court shall discharge ~~such the~~ the person and dismiss the ~~proceedings~~
40 ~~against him. proceedings.~~ Discharge and dismissal under this section shall be without court
41 adjudication of guilt and shall not be deemed a conviction for purposes of this section or for
42 purposes of disqualifications or disabilities imposed by law upon conviction of a crime including
43 the additional penalties imposed for second or subsequent convictions under this Article.
44 Discharge and dismissal under this section or G.S. 90-113.14 may occur only once with respect to
45 any person. Disposition of a case to determine discharge and dismissal under this section at the
46 district court division of the General Court of Justice shall be final for the purpose of appeal. Prior
47 to taking any action to discharge and dismiss under this section the court shall make a finding that
48 the defendant has no record of previous convictions as provided in this subsection.

49 (a1) Upon the first conviction only of any offense which qualifies under the provisions of
50 subsection (a) of this section, and the provisions of this subsection, the court may place defendant
51 on probation under this section for an offense under this Article including an offense for which the

prescribed punishment includes only a fine. The probation, if imposed, shall be for not less than one year and shall contain a minimum condition that the defendant who was found guilty or pleads guilty enroll in and successfully complete, within 150 days of the date of the imposition of said probation, the program of instruction at the drug education school approved by the Department of Health and Human Services pursuant to G.S. 90-96.01. The court may impose probation that does not contain a condition that defendant successfully complete the program of instruction at a drug education school if:

- (1) There is no drug education school within a reasonable distance of the defendant's residence; or
- (2) There are specific, extenuating circumstances which make it likely that defendant will not benefit from the program of instruction.

The court shall enter such specific findings in the record; provided that in the case of subdivision (2) above, such findings shall include the specific, extenuating circumstances which make it likely that the defendant will not benefit from the program of instruction.

Upon fulfillment of the terms and conditions of the probation, the court shall discharge such person and dismiss the proceedings against the person.

For the purposes of determining whether the conviction is a first conviction or whether a person has already had discharge and dismissal, no prior offense occurring more than seven years before the date of the current offense shall be considered. In addition, convictions for violations of a provision of G.S. 90-95(a)(1) or 90-95(a)(2) or 90-95(a)(3), or 90-113.10, or 90-113.11, or 90-113.12, or ~~90-113.22~~ 90-113.22, or 90-113.22A shall be considered previous convictions.

Failure to complete successfully an approved program of instruction at a drug education school shall constitute grounds to revoke probation pursuant to this subsection and deny application for expunction of all recordation of defendant's arrest, indictment, or information, trial, finding of guilty, and dismissal and discharge pursuant to G.S. 15A-145.2. For purposes of this subsection, the phrase "failure to complete successfully the prescribed program of instruction at a drug education school" includes failure to attend scheduled classes without a valid excuse, failure to complete the course within 150 days of imposition of probation, willful failure to pay the required fee for the course as provided in G.S. 90-96.01(b), or any other manner in which the person fails to complete the course successfully. The instructor of the course to which a person is assigned shall report any failure of a person to complete successfully the program of instruction to the court which imposed probation. Upon receipt of the instructor's report that the person failed to complete the program successfully, the court shall revoke probation, shall not discharge such person, shall not dismiss the proceedings against the person, and shall deny application for expunction of all recordation of defendant's arrest, indictment, or information, trial, finding of guilty, and dismissal and discharge pursuant to G.S. 15A-145.2. A person may obtain a hearing before the court of original jurisdiction prior to revocation of probation or denial of application for expunction.

This subsection is supplemental and in addition to existing law and shall not be construed so as to repeal any existing provision contained in the General Statutes of North Carolina.

(b) Upon the discharge of such person, and dismissal of the proceedings against the person under subsection (a) or (a1) of this section, such person, if he or she was not over 21 years of age at the time of the offense, may be eligible to apply for expunction of certain records relating to the offense pursuant to G.S. 15A-145.2(a).

(c) Repealed by Session Laws 2009-510, s. 8(b), effective October 1, 2010.

(d) Whenever any person is charged with a misdemeanor under this Article by possessing a controlled substance included within Schedules I through VI of this Article or a felony under G.S. 90-95(a)(3), upon dismissal by the State of the charges against such person, upon entry of a nolle prosequi, or upon a finding of not guilty or other adjudication of innocence, the person may be eligible to apply for expunction of certain records relating to the offense pursuant to G.S. 15A-145.2(b).

(e) Whenever any person who has not previously been convicted of (i) any felony offense under any state or federal laws; (ii) any offense under this Article; or (iii) an offense under any statute of the United States or any state relating to controlled substances included in any schedule of this Article or to that paraphernalia included in Article 5B of Chapter 90 of the General Statutes pleads guilty to or has been found guilty of (i) a misdemeanor under this Article by possessing a controlled substance included within Schedules I through VI of this Article, or by possessing drug paraphernalia as prohibited by G.S. 90-113.22 or G.S. 90-113.22A, or (ii) a felony under G.S. 90-95(a)(3), the person may be eligible to apply for cancellation of the judgment and expunction of certain records related to the offense pursuant to G.S. 15A-145.2(c).

(f) Repealed by Session Laws 2009-577, s. 6, effective December 1, 2009, and applicable to petitions for expunctions filed on or after that date."

SECTION 18.(a) G.S. 90-414.5 reads as rewritten:

"(a) The Authority shall provide the Department and the State Health Plan for Teachers and State Employees secure, real-time access to data and information disclosed through the HIE Network, solely for the purposes set forth in ~~subsection (a) of this section~~ G.S. 90-414.4(a) and in G.S. 90-414.2. The Authority shall limit access granted to the State Health Plan for Teachers and State Employees pursuant to this section to data and information disclosed through the HIE Network that pertains to services (i) rendered to teachers and State employees and (ii) paid for by the State Health Plan."

SECTION 18.(b) G.S. 90-414.7(b) reads as rewritten:

"(b) Powers and Duties. – The Authority has the following powers and duties:

(1) Oversee and administer the HIE Network in a manner that ensures all of the following:

...

h. Minimization of the amount of data required to be submitted under ~~G.S. 90-414(b)~~ G.S. 90-414.4(b) and any use or disclosure of such data to what is determined by the Authority to be required in order to advance the purposes set forth in G.S. 90-414.2 and ~~G.S. 90-414(a)~~ G.S. 90-414.4(a)."

SECTION 18.5. G.S. 143B-437.01(a)(6), as amended by S.L. 2016-5, reads as rewritten: G.S. 143B-437.01(a)(6) reads as rewritten:

"(a) Creation and Purpose of Fund. – There is created in the Department of Commerce a special account to be known as the Industrial Development Fund Utility Account ("Utility Account") to provide funds to assist the local government units of the most economically distressed counties in the State in creating jobs. The Department of Commerce shall adopt rules providing for the administration of the program. Those rules shall include the following provisions, which shall apply to each grant from the account:

...

(6) The funds shall not be used for any retail, entertainment, or sports projects. The funds shall not be used for any nonmanufacturing project that does not meet the wage standard for the development tier area or zone in which the project is located. There is no wage standard for a development tier one area. If an urban progress zone or an agrarian growth zone is not in a development tier one area, then the wage standard for that zone is an average weekly wage that is at least equal to ninety percent (90%) of the lesser of the average wage for all insured private employers in the State and the average wage for all insured private employers in the county in which the ~~datacenter project~~ is located. The wage standard for a development tier two area or a development tier three area is an average weekly wage that is at least equal to one hundred ten percent (110%) of the lesser of the average wage for all insured private employers in the State and

1 ninety percent (90%) of the average wage for all insured private employers in
2 the county in which the ~~datacenter~~ project is located."

3 **SECTION 19.** G.S. 147-12(b) reads as rewritten:

4 "(b) The Department of Transportation, the Division of Adult Correction of the Department
5 of Public Safety, the State Highway Patrol, the Wildlife Resources Commission, the Division of
6 Parks and Recreation in the ~~Department of Natural and Natural Resources~~ [~~Department of Natural~~
7 ~~and Cultural Resources~~], Department of Natural and Cultural Resources, and the Division of
8 Marine Fisheries in the Department of Environmental Quality shall deliver to the Governor by
9 February 1 of each year detailed information on the agency's litter enforcement, litter prevention,
10 and litter removal efforts. The Administrative Office of the Courts shall deliver to the Governor,
11 by February 1 of each year, detailed information on the enforcement of the littering laws of the
12 State, including the number of charges and convictions under the littering laws of the State. The
13 Governor shall gather the information submitted by the respective agencies and deliver a
14 consolidated annual report, on or before March 1 of each year, to the Environmental Review
15 Commission, the Joint Legislative Transportation Oversight Committee, and the House of
16 Representatives and the Senate appropriations committees with jurisdiction over natural and
17 economic resources."

18 **SECTION 20.** Section 1 of S.L. 2015-52 is repealed.

19 **SECTION 21.** Section 4 of S.L. 2016-27 reads as rewritten:

20 "~~**SECTION 4.** G.S. 14-309(5)c., G.S. 14-309.14(5)c., as enacted by Section 1 of this act,~~
21 ~~becomes effective October 1, 2016, and applies to applications submitted on or after October 1,~~
22 ~~2016, and offenses committed on or after that date. The remainder of Section 1 of this act becomes~~
23 ~~effective December 1, 2016, and applies to offenses committed on or after that date. The~~
24 ~~remainder of this act is effective when it becomes law."~~

25 **SECTION 22.** If House Bill 289, 2016 Regular Session of the 2015 General
26 Assembly, becomes law, Section 3 of the act reads as rewritten:

27 "**SECTION 3.** This act becomes effective ~~October 1, 2015.~~ October 1, 2016."

28 **SECTION 23.** Section 1 of Senate Resolution 746, adopted by the Senate, 2016
29 Regular Session of the 2015 General Assembly, is amended by deleting the phrase "general
30 farming" and substituting the word "marketing" in its place.

31 **PART III. EFFECTIVE DATE**

32 **SECTION 24.** Section 2 of this act becomes effective December 1, 2015. Except as
33 otherwise provided in this act, this act is effective when it becomes law.
34

Senate Pages Attending

COMMITTEE: Rules ROOM: 1027
DATE: 6-29 TIME: 1:30

PLEASE PRINT LEGIBLY!!!!!!!!!!!!!!....or else!

	Page Name	Hometown	Sponsoring Senator
1.	Cara Kuuskvere	Charlotte	Rucho
2.	Riky McNulty	Huntsville	Tate
3.	Brian Davis	Norlina	Bryant
4.	Matthew Langston	Wilson	Newton
5.	Simon Cawley	Mount Airy	Randleman
6.	Kayla Alston	Reidsville	Berger
7.			
8.			
9.			
10.			

Do not add names below the grid.

Pages: Present this form to either the Committee Clerk at the meeting or to the Sgt-at-Arms.



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MINUTES

Rules and Operations of the Senate

June 30, 2016

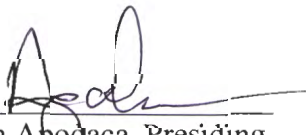
The Rules and Operations of the Senate committee met on June 30, 2016 at 4:15 p.m. The meeting was held in room 1027/1028 of the Legislative Building. Ten members of the committee were present. Senator Tom Apodaca presided.

Senator Apodaca introduced the Pages and the Sergeant at Arms.

Senator Apodaca brought forth the items on the agenda:

SJR 903: Adjourn- Senator Apodaca explained the bill. Senator Brown sent forth an amendment. Amendment passed. Senator Tucker moved for a favorable report to the bill as amended. Motion carried.

The meeting adjourned at 4:21 p.m.



Senator Tom Apodaca, Presiding

Laura Kilian, Committee Assistant



Principal Clerk
Reading Clerk

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Rules and Operations of the Senate** will meet at the following time:

DAY	DATE	TIME	ROOM
Thursday	June 30, 2016	4:15 PM	1027/1128 LB

Senate Joint Resolution 903: Adjournment Resolution

Senator Tom Apodaca, Chair



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT
Senator Apodaca, Co-Chair**

Thursday, June 30, 2016

Senator Apodaca,
submits the following with recommendations as to passage:

FAVORABLE, AS AMENDED

SJR 903

Adjourn.

Draft Number:	None
Sequential Referral:	None
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Tom Apodaca will handle SJR 903



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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S

D

SENATE JOINT RESOLUTION DRSJR45552-MM-166 (06/29)

Sponsors: Senator Apodaca (Primary Sponsor).

Referred to:

1 A JOINT RESOLUTION PROVIDING FOR ADJOURNMENT SINE DIE OF THE 2015
2 REGULAR SESSION OF THE GENERAL ASSEMBLY.

3 Be it resolved by the Senate, the House of Representatives concurring:

4 **SECTION 1.** When the Senate and the House of Representatives, constituting the
5 2015 Regular Session of the General Assembly, adjourn on Saturday, July 2, 2016, they stand
6 adjourned sine die.

7 **SECTION 2.** This resolution is effective upon ratification.





NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____

DATE 10/30/10

S. B. No. SJR 903

Amendment No. _____

(to be filled in by
Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)

Sen.)

Brown

1 moves to amend the bill on page 1, line 5

2 () WHICH CHANGES THE TITLE

3 by _____

4 deleting the phrase "Saturday, July 2, 2016"

5 _____

6 and substituting the phrase

7 _____

8 "Friday, July 1, 2016",

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

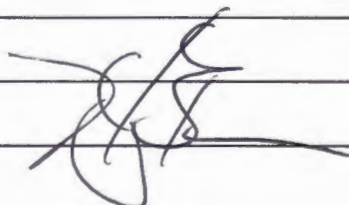
16 _____

17 _____

18 _____

19 _____

SIGNED _____



ADOPTED _____ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

MINUTES

Rules and Operations of the Senate

July 1, 2016

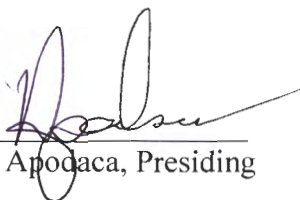
The Rules and Operations of the Senate committee met on July 1, 2016 at 5:00 p.m. The meeting was held in room 1027/1028 of the Legislative Building. Fourteen members of the committee were present. Senator Tom Apodaca presided.

Senator Apodaca introduced the Pages and the Sergeant at Arms.

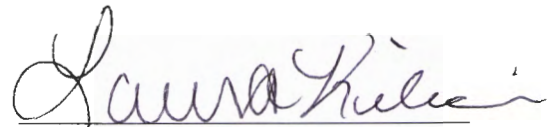
Senator Apodaca brought forth the items on the agenda:

HB 483: Land-Use Regulatory Changes – Senator Barefoot moved to bring the PCS before the committee. Motion carried. Senator Gunn explained the PCS. Senator Meredith moved for a favorable report to the PCS, unfavorable to the first PCS. Motion carried.

The meeting adjourned at 5:09 p.m.



Senator Tom Apodaca, Presiding



Laura Kilian, Committee Assistant



Principal Clerk
Reading Clerk

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Rules and Operations of the Senate** will meet at the following time:

DAY	DATE	TIME	ROOM
Friday	July 1, 2016	5:00 PM	1027/1128 LB

The following will be considered:

BILL NO.	SHORT TITLE	SPONSOR
HB 483	Land-Use Regulatory Changes.	Representative Jordan

Senator Tom Apodaca, Chair



**Senate Committee on Rules and Operations of the Senate
Friday, July 1, 2016, 5:00 PM
1027/1128 Legislative Building**

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 483	Land-Use Regulatory Changes.	Representative Jordan

Presentations

Other Business

Adjournment



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT
Senator Apodaca, Co-Chair**

Friday, July 01, 2016

Senator Apodaca,
submits the following with recommendations as to passage:

**UNFAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 1, BUT
FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 2**

HB 483 (SCS#1)	Land-Use Regulatory Changes.
	Draft Number: H483-PCS40695-RN-59
	Sequential Referral: None
	Recommended Referral: None
	Long Title Amended: No

TOTAL REPORTED: 1

Senator Rick Gunn will handle HB 483



★ C M R 8 4 5 - V - 1 ★



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

4

HOUSE BILL 483
Committee Substitute Favorable 4/28/15
Third Edition Engrossed 4/29/15
Senate Judiciary I Committee Substitute Adopted 6/21/16

Short Title: Land-Use Regulatory Changes.

(Public)

Sponsors:

Referred to:

April 2, 2015

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO THE LAND-USE REGULATORY LAWS OF THE
STATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-385 reads as rewritten:

"§ 160A-385. Changes.

...

(b) Amendments in land development regulations, as defined in G.S. 160A-400.21(6), including zoning ordinances or unified development ordinances, shall not be applicable or enforceable without the written consent of the owner with regard to buildings and uses buildings, uses, or developments for which either (i) building permits have been issued pursuant to G.S. 160A-417 prior to the enactment of the ordinance making the change or changes so long as the permits remain valid and unexpired pursuant to G.S. 160A-418 and unrevoked pursuant to G.S. 160A-422 or (ii) a vested right has been established pursuant to G.S. 160A-385.1 and such vested right remains valid and unexpired pursuant to G.S. 160A-385.1, any of the following approvals or permits have been validly issued and remain unexpired pursuant to law:

(1) A zoning approval, which includes, but is not limited to, a zoning permit, a site plan approval, a conditional use permit, or any other permit or approval given under the authority of Article 19 of Chapter 160A of the General Statutes that authorizes the use of land.

(2) A building permit issued pursuant to this Chapter.

The applicable application for either such zoning approval or building permit must be submitted in accordance with G.S. 143-755 prior to the change in the development regulations. Amendments shall also not be applicable or enforceable without the written consent of the owner if a vested right has been established pursuant to G.S. 160A-385.1, and such vested right remains valid and unexpired or if a vested right is established by the terms of a development agreement authorized by Part 3D of this Article. A vested right, once established as provided for in this section, precludes any action by a city which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in the application, except where a change in State or federal law mandating local government enforcement occurs after the application is submitted that has a fundamental effect on such development or use.

(b1) For purposes of this section, a multi-phased development shall be considered vested for the entire development with the land development regulations then in place at the time of application for the initial phase so long as the developer notifies the approving authority in an



* H 4 8 3 - V - 4 *

1 application that it is a multi-phased project and submits a plan describing with reasonable certainty
2 the type and intensity of use for a specific parcel or parcels of property and showing the proposed
3 phase boundaries. A right which has been vested as provided for in this subsection shall remain
4 vested for a period of 10 years.

5 (b2) Nothing in this section shall preclude a judicial determination, based on common law
6 principles or other statutory provisions, that a vested right exists in a particular case."

7 **SECTION 2.** G.S. 153A-344 reads as rewritten:

8 **"§ 153A-344. Planning board; zoning plan; certification to board of commissioners.**

9 ...
10 (b) Amendments in land development regulations, as defined in G.S. 153A-349.2(6),
11 including zoning ordinances or unified development ordinances, shall not be applicable or
12 enforceable without the written consent of the owner with regard to buildings and uses buildings,
13 uses, or developments for which either (i) building permits have been issued pursuant to G.S.
14 153A-357 prior to the enactment of the ordinance making the change or changes so long as the
15 permits remain valid and unexpired pursuant to G.S. 153A-358 and unrevoked pursuant to G.S.
16 153A-362 or (ii) a vested right has been established pursuant to G.S. 153A-344.1 and such vested
17 right remains valid and unexpired pursuant to G.S. 153A-344.1 any of the following approvals or
18 permits have been validly issued and remain unexpired pursuant to law:

19 (1) A zoning approval, which includes, but is not limited to, a zoning permit, a site
20 plan approval, a conditional use permit, or any other permit or approval given
21 under the authority of Article 18 of Chapter 153A of the General Statutes that
22 authorizes the use of land.

23 (2) A building permit issued pursuant to this Chapter.

24 The applicable application for either such zoning approval or building permit must be submitted in
25 accordance with G.S. 143-755 prior to the change in the development regulations. Amendments
26 shall also not be applicable or enforceable without the written consent of the owner if a vested
27 right has been established pursuant to G.S. 153A-344.1, and such vested right remains valid and
28 unexpired or if a vested right is established by the terms of a development agreement authorized
29 by Part 3A of this Article. A vested right, once established as provided for in this section,
30 precludes any action by a city which would change, alter, impair, prevent, diminish, or otherwise
31 delay the development or use of the property as set forth in the application, except where a change
32 in State or federal law mandating local government enforcement occurs after the application is
33 submitted that has a fundamental effect on such development or use.

34 (b1) For purposes of this section, a multi-phased development shall be considered vested for
35 the entire development with the land development regulations then in place at the time of
36 application for the initial phase so long as the developer notifies the approving authority in the
37 application that it is a multi-phased project and submits a plan describing with reasonable certainty
38 the type and intensity of use for a specific parcel or parcels of property and showing the proposed
39 phase boundaries. A right which has been vested as provided for in this subsection shall remain
40 vested for a period of 10 years.

41 (b2) Nothing in this section shall preclude a judicial determination, based on common law
42 principles or other statutory provisions, that a vested right exists in a particular case."

43 **SECTION 3.** Part 3 of Article 19 of Chapter 160A of the General Statutes is amended
44 by adding a new section to read:

45 **"§ 160A-393.1. Civil action for declaratory relief, injunctive relief, or other remedies.**

46 (a) Action for Relief Authorized. – Notwithstanding the provisions of G.S. 160A-388, any
47 person who either meets the criteria set forth in G.S. 160A-393(d)(1) or is a permit applicant and
48 who is aggrieved by a final decision of an administrative official involving the application or
49 enforcement or a city or county zoning ordinance, subdivision ordinance, unified development
50 ordinance, or other ordinance regulating the use or development of land may, in lieu of taking an
51 appeal to a board of adjustment, maintain an original action in the superior court or business court

for declaratory relief, injunctive relief, damages, or other remedy provided or allowed by law or equity, where any one or more of the following claims or defenses are asserted:

- (1) That the ordinance, either on its face or as applied by the final decision of the administrative official, violates the United States or North Carolina Constitutions.
- (2) That the ordinance or the final decision of the administrative official is invalid or unenforceable on grounds of ultra vires, preemption, including preemption under G.S. 160A-174(b), or is otherwise in excess of authority.
- (3) That the ordinance or the final decision of the administrative official violates common law or statutory vested rights of the aggrieved person.
- (4) That the ordinance or the final decision of the administrative official constitutes a taking of property.

In any action brought pursuant to this subsection and notwithstanding G.S. 160A-388(b1), the aggrieved party may join any other claims and defenses arising from or relating to the final decision of the administrative official, including, without limitation, claims or defenses relating to the interpretation or application of the ordinance.

(b) Time for Commencement of Action. – Any action brought pursuant to this section shall be commenced within one year after the date on which written notice of the final decision is delivered to the aggrieved party by personal delivery, electronic mail, or by first-class mail.

(c) Availability of Alternative Remedy. – Any person otherwise entitled to maintain an action under this section may elect instead to present any of the claims or defenses set forth in subdivisions (1) through (3) of subsection (a) of this section by way of appeal to the board of adjustment as provided in G.S. 160A-388(b1) and may thereafter appeal from a decision by the board of adjustment as provided in G.S. 160A-393. Once an appeal setting forth such claims or defenses has been filed pursuant to G.S. 160A-388(b1)(1) and its related hearing before the board of adjustment commenced, a party may not thereafter bring an action as authorized by this section, provided, however, that nothing herein shall be deemed to preclude a party from maintaining an action under federal law or a takings claim.

(d) Notice to Abutting Landowners. – A person who commences an action pursuant to this section shall notify by first-class mail the owners of all parcels of land abutting the parcel of land that is the subject of the complaint that such action has been filed. The notice shall include a copy of the complaint. The person bringing the civil action may rely on the county tax listing to determine owners of property entitled to mailed notice and the applicable mailing addresses. The notice shall be mailed no later than 30 days after the commencement of the action, unless an extension not to exceed 30 days is granted pursuant to Rule 6(b) of the North Carolina Rules of Civil Procedure."

SECTION 4. G.S. 160A-393 reads as rewritten:

"§ 160A-393. Appeals in the nature of certiorari.

...

(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(e)(2), 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~~section, including an error related to the claims or defenses in subdivision (k)(4) 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. The court shall consider the interpretation of the decision-making board, but is not bound by that interpretation, and may freely substitute its judgment as appropriate.

(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.

(4) The petitioner may assert and the court shall determine de novo, based on the record in subsection (j) of this section, any of the following claims or defenses:

- a. That the ordinance, either on its face or as applied by the final decision of the administrative official, violates the United States or North Carolina Constitutions.
- b. That the ordinance or the final decision of the administrative official is invalid or unenforceable on grounds of ultra vires, preemption, including preemption under G.S. 160A-174(b), or is otherwise in excess of authority.
- c. That the ordinance or the final decision of the administrative official violates common law or statutory vested rights of the aggrieved person.

(5) In order to raise any of the claims or defenses listed in subdivision (4) of this subsection, to the extent that they do not involve some act of the decision-making board itself or any of its members, the claim or defense shall be made known to the decision-making board at the hearing.

...."

SECTION 5. Part 3 of Article 19 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-393.2. No estoppel effect when challenging unlawful conditions.

No landowner or permit applicant shall be precluded from timely challenging any unlawful condition imposed on a development as part of the application of land development regulations as defined in G.S. 160A-400.21(6) as a result of actions by the landowner or permit applicant to proceed with the development or use. A local government may not raise estoppel, waiver, release, or acceptance or other similar grounds as a defense to such challenge. This section shall not apply to rezoning decisions."

SECTION 6. G.S. 6-21.7 reads as rewritten:

"§ 6-21.7. Attorneys' fees; cities or counties acting outside the scope of their authority.

In any action in which a city or county is a party, upon a finding by the court that the city or county ~~acted outside the scope of its legal authority, violated a statute or case law setting forth unambiguous limits on its authority,~~ the court ~~may shall~~ award reasonable attorneys' fees and costs to the party who successfully challenged the city's or county's action, ~~provided that if the court also finds that the city's or county's action was an abuse of its discretion, the court shall award attorneys' fees and costs action.~~ In all other matters, the court may award reasonable attorneys' fees and costs to the prevailing private litigant. For purposes of this section, "unambiguous" means that the limits of authority are not reasonably susceptible to multiple constructions."

SECTION 7. G.S. 160A-372 reads as rewritten:

"§ 160A-372. Contents and requirements of ordinance.

...

(c) The ordinance may provide for the more orderly development of subdivisions by requiring the construction of community service facilities in accordance with municipal plans, policies, and standards. To assure compliance with these and other ordinance requirements, the ordinance may provide for performance guarantees ~~to assure successful completion of required improvements either at the time the plat is recorded as provided in subsection (b) of this section.~~ section or at a time subsequent to the recording of the plat, but prior to the issuance of a permit pursuant to G.S. 160A-417(a)(1), to assure successful completion of required improvements. In the event a city fails to adopt an ordinance setting forth performance guarantees in compliance with subsection (g) of this section, a city shall not be authorized to require the successful completion of required improvements prior to a plat being recorded. For any specific development, the type and term of performance ~~guarantee-guarantee, or any extension of the performance guarantee,~~ shall be at the election of the ~~developer-developer~~ provided that any performance guarantee or extension be available to assure the successful completion of improvements for which it is required. The developer shall be allowed, without limitation, to reduce the amount of the performance guarantee to reflect only the remaining incomplete items.

...

(g) For purposes of this section, all of the following shall apply with respect to performance guarantees:

(1) The term "performance guarantee" shall mean any of the following forms of guarantee:

- a. Surety bond issued by any company authorized to do business in this State.
- b. Letter of credit issued by any financial institution licensed to do business in this State.
- c. Other form of guarantee that provides equivalent security to a surety bond or letter of credit.

(2) The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement by the city or county that the

improvements for which the performance guarantee is being required are complete. If the improvements are not complete and the current performance guarantee is expiring, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period until such required improvements are complete. A developer shall demonstrate reasonable, good faith progress toward completion of the required improvements that are the subject of the performance guarantee or any extension. The form of any extension shall remain at the election of the developer.

(3) The amount of the performance guarantee shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion at the time the performance guarantee is issued. Any extension of the performance guarantee necessary to complete required improvements shall not exceed one hundred twenty-five percent (125%) of the reasonably estimated cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained. At the election of the developer, the one hundred twenty-five percent (125%) of the reasonably estimated cost of completion may be conclusively determined by a report provided under seal by an architect licensed under the provisions of Chapter 83A of the General Statutes or an engineer registered under the provisions of Chapter 89C of the General Statutes. This report may contain unit pricing information provided by a general contractor, licensed under Chapter 87 of the General Statutes, or any other competent source which the architect or engineer certifies, under seal, as accurate. The reasonably estimated cost of completion shall include all costs of inflation and costs of administration and enforcement, no matter how such related fees or charges are denominated.

(4) The performance guarantee shall only be used for completion of the required improvements and not for repairs or maintenance after completion.

(5) The developer shall have the option to post one form of a performance guarantee as provided for in subdivision (1) of this subsection, in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring performance guarantees, including, without limitation, subdivision, erosion control, and storm water.

(6) No person shall have or may claim any rights under or to any performance guarantee provided pursuant to this subsection or in or to the proceeds of any such performance guarantee other than the following:

a. The local government to whom such performance guarantee is provided.

b. The developer at whose request or for whose benefit such performance guarantee is given.

c. The person or entity issuing or providing such performance guarantee at the request of or for the benefit of the developer."

SECTION 8. G.S. 153A-331(e) reads as rewritten:

"(e) The ordinance may provide for the more orderly development of subdivisions by requiring the construction of community service facilities in accordance with county plans, policies, and standards. To assure compliance with these and other ordinance requirements, the ordinance may provide for performance guarantees ~~to assure successful completion of required improvements either~~ at the time the plat is recorded as provided in subsection (b) of this section. section or at a time subsequent to the recording of the plat, but prior to the issuance of a permit pursuant to G.S. 153A-357(a)(1), to assure successful completion of required improvements. In the event a county fails to adopt an ordinance setting forth performance guarantees in compliance with subsection (g) of this section, a county shall not be authorized to require the successful

1 completion of required improvements prior to a plat being recorded. For any specific
2 development, the type and term of performance guarantee from the range specified by the county
3 guarantee, or any extension of the performance guarantee, shall be at the election of the
4 developer-developer, provided that any performance guarantee or extension be available to assure
5 the successful completion of the improvements for which it is required. The developer shall be
6 allowed, without limitation, to reduce the amount of the performance guarantee to reflect only the
7 remaining incomplete items."

8 **SECTION 9.** G.S. 160A-381(c) reads as rewritten:

9 "(c) The regulations may also provide that the board of adjustment, the planning board, or
10 the city council may issue special use permits or conditional use permits in the classes of cases or
11 situations and in accordance with the principles, conditions, safeguards, and procedures specified
12 therein and may impose reasonable and appropriate conditions and safeguards upon these permits.
13 Conditions and safeguards imposed under this subsection shall not include requirements for which
14 the city does not have authority under statute to regulate nor requirements for which the courts
15 have held to be unenforceable if imposed directly by the ~~city~~-city, including, without limitation,
16 taxes, impact fees, building design elements within the scope of subsection (h) of this section not
17 voluntarily offered by petitioner, street improvements in excess of those allowed in
18 G.S. 160A-372, driveway-related improvements in excess of those allowed in G.S. 136-18(29) and
19 G.S. 160A-307, or other unauthorized limitations on the development or use of land. When
20 deciding special use permits or conditional use permits, the city council or planning board shall
21 follow quasi-judicial procedures. Notice of hearings on special or conditional use permit
22 applications shall be as provided in G.S. 160A-388(a2). No vote greater than a majority vote shall
23 be required for the city council or planning board to issue such permits. For the purposes of this
24 section, vacant positions on the board and members who are disqualified from voting on a
25 quasi-judicial matter shall not be considered "members of the board" for calculation of the
26 requisite majority. Every such decision of the city council or planning board shall be subject to
27 review of the superior court in the nature of certiorari in accordance with G.S. 160A-388.

28 Where appropriate, such conditions may include requirements that street and utility
29 rights-of-way be dedicated to the public and that provision be made of recreational space and
30 facilities."

31 **SECTION 10.** G.S. 153A-340(c1) reads as rewritten:

32 "(c1) The regulations may also provide that the board of adjustment, the planning board, or
33 the board of commissioners may issue special use permits or conditional use permits in the classes
34 of cases or situations and in accordance with the principles, conditions, safeguards, and procedures
35 specified therein and may impose reasonable and appropriate conditions and safeguards upon
36 these permits. Conditions and safeguards imposed under this subsection shall not include
37 requirements for which the county does not have authority under statute to regulate nor
38 requirements for which the courts have held to be unenforceable if imposed directly by the ~~county~~-
39 county, including, without limitation, taxes, impact fees, building design elements within the
40 scope of subsection (l) of this section not voluntarily offered by petitioner, street improvements in
41 excess of those allowed in G.S. 160A-372, driveway-related improvements in excess of those
42 allowed in G.S. 136-18(29), or other unauthorized limitations on the development or use of land.
43 Where appropriate, the conditions may include requirements that street and utility rights-of-way
44 be dedicated to the public and that recreational space be provided. When deciding special use
45 permits or conditional use permits, the board of county commissioners or planning board shall
46 follow quasi-judicial procedures. Notice of hearings on special or conditional use permit
47 applications shall be as provided in G.S. 160A-388(a2). No vote greater than a majority vote shall
48 be required for the board of county commissioners or planning board to issue such permits. For the
49 purposes of this section, vacant positions on the board and members who are disqualified from
50 voting on a quasi-judicial matter shall not be considered "members of the board" for calculation of
51 the requisite majority. Every such decision of the board of county commissioners or planning

board shall be subject to review of the superior court in the nature of certiorari consistent with G.S. 160A-388."

SECTION 11. G.S. 153A-352(b) reads as rewritten:

"(b) Except as provided in G.S. 153A-364, a county may not adopt or enforce a local ordinance or resolution or any other policy that requires regular, routine inspections of buildings or structures constructed in compliance with the North Carolina Residential Code for One- and Two-Family Dwellings in addition to the specific inspections required by the North Carolina Building Code without first obtaining approval from the North Carolina Building Code Council. The North Carolina Building Code Council shall review all applications for additional inspections requested by a county and shall, in a reasonable manner, approve or disapprove the additional inspections. This subsection does not limit the authority of the county to require inspections upon unforeseen or unique circumstances that require immediate action. In performing the specific inspections required by the North Carolina Building Code, the inspector shall conduct all inspections requested by the permit holder for each scheduled inspection visit. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected is incomplete or otherwise fails to meet the requirements of the North Carolina Residential Code for One- and Two-Family Dwellings."

SECTION 12. G.S. 160A-412(b) reads as rewritten:

"(b) Except as provided in G.S. 160A-424, a city may not adopt or enforce a local ordinance or resolution or any other policy that requires regular, routine inspections of buildings or structures constructed in compliance with the North Carolina Residential Code for One- and Two-Family Dwellings in addition to the specific inspections required by the North Carolina Building Code without first obtaining approval from the North Carolina Building Code Council. The North Carolina Building Code Council shall review all applications for additional inspections requested by a city and shall, in a reasonable manner, approve or disapprove the additional inspections. This subsection does not limit the authority of the city to require inspections upon unforeseen or unique circumstances that require immediate action. In performing the specific inspections required by the North Carolina Building Code, the inspector shall conduct all inspections requested by the permit holder for each scheduled inspection visit. For each requested inspection, the inspector shall inform the permit holder of instances in which the work inspected is incomplete or otherwise fails to meet the requirements of the North Carolina Residential Code for One- and Two-Family Dwellings."

SECTION 13. G.S. 160A-307 reads as rewritten:

"§ 160A-307. Curb cut regulations.

A city may by ordinance regulate the size, location, direction of traffic flow, and manner of construction of driveway connections into any street or alley. The ordinance may require the construction or reimbursement of the cost of construction and public dedication of medians, acceleration and deceleration lanes, and traffic storage lanes for driveway connections into any street or alley if:

(1) The need for such improvements is reasonably attributable to the traffic using the driveway; and

(2) The improvements serve the traffic of the driveway.

No street or alley under the control of the Department of Transportation may be improved without the consent of the Department of Transportation. ~~However, if there is a conflict between the written driveway regulations of the Department of Transportation and the related driveway improvements required by the city, the more stringent requirement shall apply.~~ A city may not require the applicant to acquire right-of-way from property not owned by the applicant.

SECTION 14. G.S. 160A-385(b1), as enacted by Section 1 of this act, and G.S. 153A-344(b1), as enacted by Section 2 of this act, are effective with respect to phased development approvals which are valid and unexpired on the effective date of this act. G.S. 160A-372(g)(6), as enacted by Section 7 of this act, is declarative of existing law as to all

1 performance guarantees issued pursuant to Chapter 160A or Chapter 153A of the General Statutes
2 and is not intended to be a change in existing law as to performance guarantees whenever issued.
3 The remainder of this act is effective when it becomes law and applies to permit applications filed,
4 permits previously issued which remain valid and unexpired on the date this act becomes law,
5 actions filed in court, and claims and defenses asserted on or after that date.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

D

HOUSE BILL 483
Committee Substitute Favorable 4/28/15
Third Edition Engrossed 4/29/15
Senate Judiciary I Committee Substitute Adopted 6/21/16
PROPOSED SENATE COMMITTEE SUBSTITUTE H483-CSRN-59 [v.3]
07/01/2016 04:33:41 PM

Short Title: Land-Use Regulatory Changes.

(Public)

Sponsors:

Referred to:

April 2, 2015

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO THE LAND-USE REGULATORY LAWS OF THE
STATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-385 is amended by adding a new subsection to read:

"(b1) Amendments in zoning ordinances, subdivision ordinances and unified development ordinances shall not be applicable or enforceable without the written consent of the owner with regard to a multi-phased development as defined in G.S. 160A-385.1(b)(7). A multi-phased development shall be vested for the entire development with the zoning ordinances, subdivision ordinances and unified development ordinances then in place at the time a site plan approval is granted for the initial phase of the multi-phased development. A right which has been vested as provided for in this subsection shall remain vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development."

SECTION 2. G.S. 160A-385.1(b) reads as rewritten:

"(b) Definitions.

...

(7) "Multi-phased development" means a development containing 100 acres or more that (i) is submitted for site plan approval for construction to occur in more than one phase, and (ii) is subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval."

SECTION 3. G.S. 153A-344 is amended by adding a new subsection to read:

"(b1) Amendments in zoning ordinances, subdivision ordinances and unified development ordinances shall not be applicable or enforceable without the written consent of the owner with regard to a multi-phased development as defined in G.S. 153A-344.1(b)(7). A multi-phased development shall be vested for the entire development with the zoning ordinances, subdivision ordinances and unified development ordinances then in place at the time a site plan approval is granted for the initial phase of the multi-phased development. A right which has been vested as provided for in this subsection shall remain vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development."

SECTION 4. G.S. 153A-344.1(b) reads as rewritten:

"(b) Definitions.

...



* H 4 8 3 - C S R N - 5 9 *

1 (7) "Multi-phased development" means a development containing 100 acres or
2 more that (i) is submitted for site plan approval for construction to occur in
3 more than one phase, and (ii) is subject to a master development plan with
4 committed elements, including a requirement to offer land for public use as a
5 condition of its master development plan approval."

6 **SECTION 5.** This act is effective when it becomes law and applies to multi-phased
7 developments with approved site plans which are valid and unexpired on the effective date of this
8 section and to multi-phased developments approved on or after the effective date of this act.

VISITOR REGISTRATION SHEET

Senate Committee on Rules and Operations
(Committee Name)

7-1-2016
Date

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Sarah Preston	ALLV-NC
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VISITOR REGISTRATION SHEET

Senate Committee on Rules and Operations
(Committee Name)

7-1-2016

Date

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